



March 29, 2005

ENGROSSED SENATE BILL No. 139

DIGEST OF SB 139 (Updated March 28, 2005 2:08 pm - DI 96)

Citations Affected: IC 10-13; IC 25-1; IC 25-4; IC 25-6.1; IC 25-7; IC 25-8; IC 25-9; IC 25-15; IC 25-20.2; IC 25-20.7; IC 25-21.5; IC 25-21.8; IC 25-23.7; IC 25-28.5; IC 25-30; IC 25-31; IC 25-34.1; IC 27-16; IC 34-30; noncode.

Synopsis: Professional licensing. Establishes a process for renewing a license or certificate. Provides that a board may request the attorney general's office to investigate a prohibited act committed by an applicant. Provides that the professional licensing agency may stagger license or certificate renewal cycles. Provides that certain boards and commissions must establish licensing, renewal, examination, application, reinstatement, and restoration fees for licenses and certificates. Allows an applicant for registration as a professional engineer who has failed three or more exams to obtain approval from the board to take subsequent exams. Allows the board to issue a registration as a professional engineer to a person who: (1) completes an engineering curriculum and at least three years of work experience; and (2) has been registered or licensed as a professional engineer in another state for at least ten years. Repeals corresponding provisions concerning appeals of denials of license renewals, investigation of certain complaints, and renewal fees for land surveyors. Establishes funds to assist in investigating registered: (1) architects and landscape architects; (2) land surveyors and land surveyors in training; and (3)

(Continued next page)

Effective: June 1, 2005; July 1, 2005.

Meeks, Lewis

(HOUSE SPONSOR — ALDERMAN)

January 4, 2005, read first time and referred to Committee on Governmental Affairs and Interstate Cooperation.

February 10, 2005, amended, reported favorably — Do Pass.

February 14, 2005, read second time, ordered engrossed.

February 15, 2005, engrossed. Read third time, passed. Yeas 47, nays 1.

HOUSE ACTION

March 7, 2005, read first time and referred to Committee on Employment and Labor.

March 28, 2005, amended, reported — Do Pass.

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professional engineers and engineering interns; to be funded by a fee assessed against the registered professionals. Allows an applicant for the journeyman plumber examination to present proof of four years of certain types of plumbing trade experience. Requires the office of the secretary of state to register interior designers and specifies licensure requirements. Establishes the state board of massage therapy to license massage therapists and specifies licensure requirements. Requires registration and regulation by the department of insurance of a professional employer organization. Specifies certain requirements for conduct with respect to functions of a professional employer organization.

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March 29, 2005

First Regular Session 114th General Assembly (2005)

PRINTING CODE. Amendments: Whenever an existing statute (or a section of the Indiana Constitution) is being amended, the text of the existing provision will appear in this style type, additions will appear in **this style type**, and deletions will appear in ~~this style type~~.

Additions: Whenever a new statutory provision is being enacted (or a new constitutional provision adopted), the text of the new provision will appear in **this style type**. Also, the word **NEW** will appear in that style type in the introductory clause of each SECTION that adds a new provision to the Indiana Code or the Indiana Constitution.

Conflict reconciliation: Text in a statute in *this style type* or ~~this style type~~ reconciles conflicts between statutes enacted by the 2004 Regular Session of the General Assembly.

ENGROSSED SENATE BILL No. 139

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

Be it enacted by the General Assembly of the State of Indiana:

- 1 SECTION 1. IC 10-13-3-37 IS AMENDED TO READ AS
2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) Under Public
3 Law 92-544 (86 Stat. 1115), a local law enforcement agency may use
4 fingerprints submitted for the purpose of identification in a request
5 related to the following:
- 6 (1) A taxicab driver's license application.
 - 7 (2) ~~An application for a license for a massage therapist.~~
 - 8 (3) (2) Reinstatement or renewal of a **taxicab driver's** license.
9 ~~described in subdivisions (1) and (2).~~
 - 10 (b) An applicant shall submit the fingerprints on forms provided for
11 the license application.
 - 12 (c) The local law enforcement agency shall charge each applicant
13 the fees set by the department and federal authorities to defray the costs
14 associated with a search for and classification of the applicant's
15 fingerprints.
 - 16 (d) The local law enforcement agency may:
17 (1) forward for processing to the Federal Bureau of Investigation

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1 or any other agency fingerprints submitted by a license applicant;
2 and

3 (2) receive the results of all fingerprint investigations.

4 SECTION 2. IC 25-1-2-2.1 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. Rather than being
6 issued annually, the following permits, licenses, certificates of
7 registration, or evidences of authority granted by a state agency must
8 be issued for a period of two (2) years or for the period specified in the
9 article under which the permit, license, certificate of registration, or
10 evidence of authority is issued if the period specified in the article is
11 longer than two (2) years:

12 (1) Certified public accountants, public accountants, and
13 accounting practitioners.

14 (2) Architects and landscape architects.

15 (3) Dry cleaners.

16 (4) Professional engineers.

17 (5) Land surveyors.

18 (6) Real estate brokers.

19 (7) Real estate agents.

20 (8) Security dealers' licenses issued by the securities
21 commissioner.

22 (9) Dental hygienists.

23 (10) Dentists.

24 (11) Veterinarians.

25 (12) Physicians.

26 (13) Chiropractors.

27 (14) Physical therapists.

28 (15) Optometrists.

29 (16) Pharmacists and assistants, drugstores or pharmacies.

30 (17) Motels and mobile home park licenses.

31 (18) Nurses.

32 (19) Podiatrists.

33 (20) Occupational therapists and occupational therapy assistants.

34 (21) Respiratory care practitioners.

35 (22) Social workers, marriage and family therapists, and mental
36 health counselors.

37 (23) Real estate appraiser licenses and certificates issued by the
38 real estate appraiser licensure and certification board.

39 (24) Wholesale legend drug distributors.

40 (25) Physician assistants.

41 (26) Dietitians.

42 (27) Hypnotists.

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- (28) Athlete agents.
- (29) Manufactured home installers.
- (30) Home inspectors.

(31) Massage therapists.

(32) Interior designers.

SECTION 3. IC 25-1-2-6 IS AMENDED TO READ AS FOLLOWS
[EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this section,
"license" includes all occupational and professional licenses,
registrations, permits, and certificates issued under the Indiana Code,
and "licensee" includes all occupational and professional licensees,
registrants, permittees, and certificate holders regulated under the
Indiana Code.

(b) This section applies to the following entities that regulate
occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.
- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.

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- (29) Indiana board of veterinary medical examiners.
- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) Attorney general (only for the regulation of athlete agents).
- (41) Manufactured home installer licensing board.
- (42) Home inspectors licensing board.
- (43) State board of massage therapy.**
- ~~(43)~~ **(44)** Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice.

SECTION 4. IC 25-1-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. ~~(a) By enactment of this chapter, the general assembly intends that, with the exception of the director, the staff of the Indiana professional licensing agency be comprised initially from among persons employed by the boards to which this chapter applies; and that no increase in the aggregate number of persons so employed be allowed by the state personnel department and the state budget agency except to comply with the provisions of this chapter.~~

~~(b)~~ It is the further intent of the general assembly that The centralization of staff, functions, and services contemplated by this chapter **shall** be done in such a way as to enhance the licensing agency's ability to:

- (1) make maximum use of data processing as a means of more efficient operation;

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- (2) provide more services and carry out functions of superior quality; and
- (3) ultimately and significantly reduce the number of staff needed to provide these services and carry out these functions.

SECTION 5. IC 25-1-6-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) There is established the Indiana professional licensing agency. The licensing agency shall perform all administrative functions, duties, and responsibilities assigned by law or rule to the executive director, secretary, or other statutory administrator of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of funeral and cemetery service (IC 25-15-9).
- (8) State board of registration for professional engineers (IC 25-31-1-3).
- (9) Indiana plumbing commission (IC 25-28.5-1-3).
- (10) Indiana real estate commission (IC 25-34.1).
- (11) Real estate appraiser licensure and certification board (IC 25-34.1-8-1).
- (12) Private detectives licensing board (IC 25-30-1-5.1).
- (13) State board of registration for land surveyors (IC 25-21.5-2-1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).
- (16) State board of massage therapy (IC 25-21.8-3-1).**

(b) ~~Except for appeals of denials of license renewals to the executive director authorized by section 5.5 of this chapter,~~ Nothing in this chapter may be construed to give the licensing agency policy making authority, which remains with each board.

SECTION 6. IC 25-1-6-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The licensing agency shall employ necessary staff, including specialists and professionals, to carry out the administrative duties and functions of the boards, including but not limited to:

- (1) notice of board meetings and other communication services;
- (2) record keeping of board meetings, proceedings, and actions;
- (3) record keeping of all persons or individuals licensed,

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regulated, or certified by a board;

(4) administration of examinations; and

(5) administration of license or certificate issuance or renewal.

(b) In addition, the licensing agency:

(1) shall prepare a consolidated statement of the budget requests of all the boards in section 3 of this chapter;

(2) may coordinate licensing or certification renewal cycles, examination schedules, or other routine activities to efficiently utilize licensing agency staff, facilities, and transportation resources, and to improve accessibility of board functions to the public; and

(3) may consolidate, where feasible, office space, record keeping, and data processing services.

~~(4) shall, upon written request, furnish at cost to any person a list of the names and addresses of persons holding a license or permit issued by one (1) of the boards listed in section 3 of this chapter.~~

(c) In administering the renewal of licenses or certificates under this chapter, the licensing agency shall issue a sixty (60) day notice of expiration to all holders of a license or certificate. The notice ~~shall be~~ **must inform the holder of a license or certificate of the requirements to:**

(1) **renew the license or certificate; and**

(2) **pay the renewal fee.**

(d) **If the licensing agency fails to send notice of expiration under subsection (c), the holder of the license or certificate is not subject to a sanction for failure to renew if the holder renews the license or certificate not more than forty-five (45) days after the holder receives the notice from the licensing agency.**

(e) **The licensing agency may require an applicant for a license or certificate renewal to submit evidence showing that the applicant:**

(1) **meets the minimum requirements for licensure or certification; and**

(2) **is not in violation of:**

(A) **the law regulating the applicant's profession; or**

(B) **rules adopted by the board regulating the applicant's profession.**

(f) **The licensing agency may delay renewing a license or certificate for not more than ninety (90) days after the renewal date to permit the board to investigate information received by the licensing agency that the applicant for renewal may have committed an act for which the applicant may be disciplined. If the**

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1 licensing agency delays renewing a license or certificate, the
 2 licensing agency shall notify the applicant that the applicant is
 3 being investigated. Except as provided in subsection (g), the board
 4 shall do one (1) of the following before the expiration of the ninety
 5 (90) day period:

6 (1) Deny renewal of the license or certificate following a
 7 personal appearance by the applicant before the board.

8 (2) Renew the license or certificate upon satisfaction of all
 9 other requirements for renewal.

10 (3) Renew the license and file a complaint under IC 25-1-7.

11 (4) Request the office of the attorney general to conduct an
 12 investigation under subsection (h) if, following a personal
 13 appearance by the applicant before the board, the board has
 14 good cause to believe that the applicant engaged in activity
 15 described in IC 25-1-11-5.

16 (5) Upon agreement of the applicant and the board and
 17 following a personal appearance by the applicant before the
 18 board, renew the license or certificate and place the applicant
 19 on probation status under IC 25-1-11-12.

20 (g) If an applicant fails to appear before the board under
 21 subsection (f), the board may take action as provided in subsection
 22 (f)(1), (f)(2), or (f)(3).

23 (h) If the board makes a request under subsection (f)(4), the
 24 office of the attorney general shall conduct an investigation. Upon
 25 completion of the investigation, the office of the attorney general
 26 may file a petition alleging that the applicant has engaged in
 27 activity described in IC 25-1-11-5. If the office of the attorney
 28 general files a petition, the board shall set the matter for a public
 29 hearing. If, after a public hearing, the board finds the applicant
 30 violated IC 25-1-11-5, the board may impose sanctions under
 31 IC 25-1-11-12. The board may delay renewing a license or
 32 certificate beyond ninety (90) days after the renewal date until a
 33 final determination is made by the board. The applicant's license
 34 or certificate remains valid until the final determination of the
 35 board is rendered unless the renewal is:

36 (1) denied; or

37 (2) summarily suspended under IC 25-1-11-13.

38 (i) The license or certificate of the applicant for license renewal
 39 remains valid during the ninety (90) day period unless the license
 40 or certificate is denied following a personal appearance by the
 41 applicant before the board before the end of the ninety (90) day
 42 period. If the ninety (90) day period expires without action by the

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board, the license or certificate shall be automatically renewed at the end of the ninety (90) day period.

(j) Notwithstanding any other law, the licensing agency may stagger license or certificate renewal cycles.

(k) An application for a license or certificate is abandoned without an action by the board if the applicant does not complete the requirements for obtaining the license or certificate not more than one (1) year after the date on which the application was filed. However, the board may, for good cause shown, extend the validity of the application for additional thirty (30) day periods. An application submitted after the abandonment of an application is considered a new application.

SECTION 7. IC 25-1-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The licensing agency shall be administered by an executive director appointed by the governor who shall serve at the will and pleasure of the governor.

(b) The executive director must be qualified by experience and training.

(c) The term "executive director" or "secretary", or any other statutory term for the administrative officer of a board listed in section 3 of this chapter, means the executive director of the licensing agency or ~~his~~ **the executive director's** designee.

(d) The executive director is the chief fiscal officer of the licensing agency and is responsible for hiring of all staff and for procurement of all services and supplies in accordance with IC 5-22. The executive director and the employees of the licensing agency are subject to IC 4-15-1.8 but are not under IC 4-15-2. The executive director may appoint no more than three (3) deputy directors, who must be qualified to work for the boards which are served by the licensing agency.

(e) The executive director shall execute a bond payable to the state, with surety to consist of a surety or guaranty corporation qualified to do business in Indiana, in an amount fixed by the state board of accounts, conditioned upon the faithful performance of duties and the accounting for all money and property that come into the executive director's hands or under the executive director's control. The executive director may likewise cause any employee of the licensing agency to execute a bond if that employee receives, disburses, or in any way handles funds or property of the licensing agency. The costs of any such bonds shall be paid from funds available to the licensing agency.

(f) The executive director may present to the general assembly legislative recommendations regarding operations of the licensing agency and the boards it serves, including adoption of four (4) year

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license or certificate renewal cycles wherever feasible.

(g) Upon the request of a board or commission, the executive director may execute orders, subpoenas, continuances, and other legal documents on behalf of the board or commission.

(h) Upon the request of a board or commission, the executive director may provide advice and technical assistance on issues that may be presented to the board or commission.

SECTION 8. IC 25-1-6-5.5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5.5. ~~(a) A person who has a license renewal denied by a board listed in section 3 of this chapter may file an appeal of the denial with the executive director of the licensing agency.~~ **in accordance with IC 4-21.5-3.**

~~(b) IC 4-21.5-3-29 and IC 4-21.5-3-30 govern the executive director's review of an appeal filed under subsection (a).~~

SECTION 9. IC 25-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

(1) licensed, certified, or registered by a board listed in this section; and

(2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2-1).

(4) State board of barber examiners (IC 25-7-5-1).

(5) State boxing commission (IC 25-9-1).

(6) Board of chiropractic examiners (IC 25-10-1).

(7) State board of cosmetology examiners (IC 25-8-3-1).

(8) State board of dentistry (IC 25-14-1).

(9) State board of funeral and cemetery service (IC 25-15-9).

(10) State board of registration for professional engineers (IC 25-31-1-3).

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- 1 (11) Indiana state board of health facility administrators
- 2 (IC 25-19-1).
- 3 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 4 (13) Indiana state board of nursing (IC 25-23-1).
- 5 (14) Indiana optometry board (IC 25-24).
- 6 (15) Indiana board of pharmacy (IC 25-26).
- 7 (16) Indiana plumbing commission (IC 25-28.5-1-3).
- 8 (17) Board of podiatric medicine (IC 25-29-2-1).
- 9 (18) Board of environmental health specialists (IC 25-32-1).
- 10 (19) State psychology board (IC 25-33).
- 11 (20) Speech-language pathology and audiology board
- 12 (IC 25-35.6-2).
- 13 (21) Indiana real estate commission (IC 25-34.1-2).
- 14 (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- 15 (23) Department of natural resources for purposes of licensing
- 16 water well drillers under IC 25-39-3.
- 17 (24) Respiratory care committee (IC 25-34.5).
- 18 (25) Private detectives licensing board (IC 25-30-1-5.1).
- 19 (26) Occupational therapy committee (IC 25-23.5).
- 20 (27) Social worker, marriage and family therapist, and mental
- 21 health counselor board (IC 25-23.6).
- 22 (28) Real estate appraiser licensure and certification board
- 23 (IC 25-34.1-8).
- 24 (29) State board of registration for land surveyors
- 25 (IC 25-21.5-2-1).
- 26 (30) Physician assistant committee (IC 25-27.5).
- 27 (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- 28 (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- 29 (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- 30 (34) Indiana physical therapy committee (IC 25-27).
- 31 (35) Manufactured home installer licensing board (IC 25-23.7).
- 32 (36) Home inspectors licensing board (IC 25-20.2-3-1).
- 33 **(37) State board of massage therapy (IC 25-21.8-3-1).**
- 34 **(38) Office of the secretary of state for purposes of registering**
- 35 **interior designers (IC 25-20.7).**
- 36 ~~(37)~~ **(39)** Any other occupational or professional agency created
- 37 after June 30, 1981.
- 38 SECTION 10. IC 25-1-8-1 IS AMENDED TO READ AS
- 39 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
- 40 chapter, "board" means any of the following:
- 41 (1) Indiana board of accountancy (IC 25-2.1-2-1).
- 42 (2) Board of registration for architects and landscape architects

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- 1 (IC 25-4-1-2).
- 2 (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- 3 (4) State board of barber examiners (IC 25-7-5-1).
- 4 (5) State boxing commission (IC 25-9-1).
- 5 (6) Board of chiropractic examiners (IC 25-10-1).
- 6 (7) State board of cosmetology examiners (IC 25-8-3-1).
- 7 (8) State board of dentistry (IC 25-14-1).
- 8 (9) State board of funeral and cemetery service (IC 25-15).
- 9 (10) State board of registration for professional engineers
- 10 (IC 25-31-1-3).
- 11 (11) Indiana state board of health facility administrators
- 12 (IC 25-19-1).
- 13 (12) Medical licensing board of Indiana (IC 25-22.5-2).
- 14 (13) Mining board (IC 22-10-1.5-2).
- 15 (14) Indiana state board of nursing (IC 25-23-1).
- 16 (15) Indiana optometry board (IC 25-24).
- 17 (16) Indiana board of pharmacy (IC 25-26).
- 18 (17) Indiana plumbing commission (IC 25-28.5-1-3).
- 19 (18) Board of environmental health specialists (IC 25-32-1).
- 20 (19) State psychology board (IC 25-33).
- 21 (20) Speech-language pathology and audiology board
- 22 (IC 25-35.6-2).
- 23 (21) Indiana real estate commission (IC 25-34.1-2-1).
- 24 (22) Indiana board of veterinary medical examiners
- 25 (IC 15-5-1.1-3).
- 26 (23) Department of insurance (IC 27-1).
- 27 (24) State police department (IC 10-11-2-4), for purposes of
- 28 certifying polygraph examiners under IC 25-30-2.
- 29 (25) Department of natural resources for purposes of licensing
- 30 water well drillers under IC 25-39-3.
- 31 (26) Private detectives licensing board (IC 25-30-1-5.1).
- 32 (27) Occupational therapy committee (IC 25-23.5-2-1).
- 33 (28) Social worker, marriage and family therapist, and mental
- 34 health counselor board (IC 25-23.6-2-1).
- 35 (29) Real estate appraiser licensure and certification board
- 36 (IC 25-34.1-8).
- 37 (30) State board of registration for land surveyors
- 38 (IC 25-21.5-2-1).
- 39 (31) Physician assistant committee (IC 25-27.5).
- 40 (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- 41 (33) Board of podiatric medicine (IC 25-29-2-1).
- 42 (34) Indiana dietitians certification board (IC 25-14.5-2-1).

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(35) Indiana physical therapy committee (IC 25-27).

(36) Manufactured home installer licensing board (IC 25-23.7).

(37) Home inspectors licensing board (IC 25-20.2-3-1).

(38) State board of massage therapy (IC 25-21.8-3-1).

(39) Office of the secretary of state for purposes of registering interior designers (IC 25-20.7).

~~(38)~~ **(40)** Any other occupational or professional agency created after June 30, 1981.

SECTION 11. IC 25-1-8-7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) As used in this section, "board" includes the entities listed in IC 25-1-6-3.

(b) Notwithstanding any other law regarding fees for reinstatement or restoration of a delinquent or lapsed license, certificate, or registration, a delinquent or lapsed license, certificate, or registration that was issued by the board may not be reinstated or restored unless the holder of the license, certificate, or registration pays:

(1) the fee established by the board under section 2 of this chapter; and

(2) a reinstatement fee established by the Indiana professional licensing agency.

(c) A license, certificate, or registration may not be reinstated or restored unless the holder of the license, certificate, or registration completes all other requirements for reinstatement or restoration of the license, certificate, or registration that are:

(1) provided for in statute or rule; and

(2) not related to fees.

(d) This section does not apply to a license, certificate, or registration if one (1) of the following applies:

(1) The license, certificate, or registration has been revoked or suspended.

(2) A statute specifically does not allow a license, certificate, or registration to be reinstated or restored.

SECTION 12. IC 25-1-11-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter, "board" means any of the following:

(1) Indiana board of accountancy (IC 25-2.1-2-1).

(2) Board of registration for architects and landscape architects (IC 25-4-1-2).

(3) Indiana auctioneer commission (IC 25-6.1-2).

(4) State board of barber examiners (IC 25-7-5-1).

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- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).
- (16) State board of massage therapy (IC 25-21.8-3-1).**
- (17) Office of the secretary of state (IC 25-20.7).**

SECTION 13. IC 25-1-11-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. The board may order a practitioner to submit to a reasonable physical or mental examination, **at the practitioner's expense**, if the practitioner's physical or mental capacity to practice safely and competently is at issue in a disciplinary proceeding.

SECTION 14. IC 25-1-11-18 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 18. A practitioner who has been subjected to disciplinary sanctions may be required by a board to pay the costs of the proceeding. The practitioner's ability to pay shall be considered when costs are assessed. If the practitioner fails to pay the costs, a suspension may not be imposed solely upon the practitioner's inability to pay the amount assessed. These costs are limited to costs for the following:

- (1) Court reporters.
- (2) Transcripts.
- (3) Certification of documents.
- (4) Photo duplication.
- (5) Witness attendance and mileage fees.
- (6) Postage.
- (7) Expert witnesses.
- (8) Depositions.
- (9) Notarizations.

(10) Administrative law judges.

SECTION 15. IC 25-1-11-19 IS ADDED TO THE CODE AS A **NEW SECTION** TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 19. (a) The board may refuse to issue a license or may**

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1 issue a probationary license to an applicant for licensure if:

2 (1) the applicant has:

3 (A) been disciplined by a licensing entity of another state
4 or jurisdiction; or

5 (B) committed an act that would have subjected the
6 applicant to the disciplinary process if the applicant had
7 been licensed in Indiana when the act occurred; and

8 (2) the violation for which the applicant was or could have
9 been disciplined has a bearing on the applicant's ability to
10 competently perform or practice the profession in Indiana.

11 (b) Whenever the board issues a probationary license, the board
12 may require a licensee to do any of the following:

13 (1) Report regularly to the board upon the matters that are
14 the basis of the discipline of the other state or jurisdiction.

15 (2) Limit practice to the areas prescribed by the board.

16 (3) Continue or renew professional education requirements.

17 (4) Engage in community restitution or service without
18 compensation for the number of hours specified by the board.

19 (5) Perform or refrain from performing an act that the board
20 considers appropriate to the public interest or to the
21 rehabilitation or treatment of the applicant.

22 (c) The board shall remove any limitations placed on a
23 probationary license under this section if the board finds after a
24 public hearing that the deficiency that required disciplinary action
25 has been remedied.

26 SECTION 16. IC 25-1-11-20 IS ADDED TO THE INDIANA
27 CODE AS A NEW SECTION TO READ AS FOLLOWS
28 [EFFECTIVE JULY 1, 2005]: **Sec. 20. The board may require an**
29 **applicant for licensure to appear before the board before issuing**
30 **a license.**

31 SECTION 17. IC 25-4-1-3 IS AMENDED TO READ AS
32 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The board shall
33 organize by the election of a chairman and vice chairman, each of
34 whom shall serve for a term of one (1) year. The first meeting of the
35 board shall be held within thirty (30) days after the members thereof
36 shall have been appointed, on call of the chairman of the board.
37 Thereafter, the board shall hold at least two (2) regular meetings each
38 year and may hold such special meetings, as the board in its discretion
39 ~~may deem~~ **deems** necessary or advisable. The time for holding the
40 regular meetings, the method of calling special meetings and the
41 manner of giving notice of all meetings shall be prescribed in the
42 bylaws of the board. Five (5) members of the board shall constitute a

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1 quorum for the transaction of any and all business which may come
 2 before the board. Approval by a majority of all members of the board
 3 shall be required for action to be taken. The board shall adopt official
 4 seals representing the different professions that shall be affixed to all
 5 certificates of registration granted and issued as provided in this
 6 chapter. Subject to the approval of the governor, the board is hereby
 7 authorized to make ~~such~~ bylaws and prescribe and promulgate ~~such~~
 8 rules as ~~may be~~ deemed necessary in the performance of its duty. The
 9 board shall adopt rules establishing standards for the competent
 10 practice of architecture and landscape architecture, **and for the**
 11 **administration of the registered architects and registered**
 12 **landscape architects investigative fund established by section 32 of**
 13 **this chapter.** Suitable office quarters shall be provided for the use of
 14 the board in the city of Indianapolis.

15 SECTION 18. IC 25-4-1-4 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall be
 17 entitled to the services of the attorney general in connection with any
 18 of the business of the board. The board shall have the power to
 19 administer oaths and take testimony and proofs concerning any matter
 20 which may come within its jurisdiction. The attorney general, the
 21 prosecuting attorney of any county, the board, ~~of registration for~~
 22 ~~architects and landscape architects~~, or ~~any a~~ citizen of ~~any a~~ county
 23 wherein any person, not herein exempted, shall engage in the practice
 24 of architecture or landscape architecture, as herein defined, without
 25 first having obtained a certificate of registration, or without first having
 26 renewed an expired certificate of registration, so to practice, may, in
 27 accordance with the provisions of the laws of this state governing
 28 injunctions, maintain an action, in the name of the state of Indiana, to
 29 enjoin such person from engaging in the practice of architecture or
 30 landscape architecture, as herein defined, until a certificate of
 31 registration is secured, or renewed, in accordance with the provisions
 32 of this chapter. Any person who has been so enjoined and who ~~shall~~
 33 ~~violate such~~ **violates the** injunction shall be punished for contempt of
 34 court. ~~Such~~ **The** injunction shall not relieve such person so practicing
 35 architecture or landscape architecture without a certificate of
 36 registration, or without first having renewed an expired certificate of
 37 registration, from a criminal prosecution therefor, as is provided by this
 38 chapter, but such remedy by injunction shall be in addition to any
 39 remedy provided for herein for the criminal prosecution of such
 40 offender. In charging any person in a complaint for an injunction, or in
 41 an affidavit, information or indictment, with the violation of the
 42 provisions of this chapter, by practicing architecture or landscape

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1 architecture without a certificate of registration or without having
 2 renewed an expired certificate of registration, it shall be sufficient to
 3 charge that the person did upon a certain day and in a certain county
 4 engage in the practice of architecture or landscape architecture, without
 5 having a certificate of registration or without having renewed an
 6 expired certificate of registration, to so practice, without averring any
 7 further or more particular facts concerning the same. **The attorney**
 8 **general and the Indiana professional licensing agency may use the**
 9 **investigative fund to hire investigators and other employees to**
 10 **enforce the provisions of this article and to investigate and**
 11 **prosecute violations of this article.**

12 SECTION 19. IC 25-4-1-6 IS AMENDED TO READ AS
 13 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **(a) Any A** person
 14 desiring to engage or continue in the practice of architecture ~~in this~~
 15 ~~state~~, shall:

16 (1) apply to the board for a certificate of registration; ~~authorizing~~
 17 ~~such person so to do~~; and

18 (2) ~~shall~~ submit evidence to the board that ~~he~~ **the person** is
 19 qualified to engage or continue in the practice of architecture;

20 in compliance with the requirements of this chapter.

21 **(b)** The application for a certificate of registration shall be:

22 (1) made on a form ~~which shall be~~ prescribed and furnished by
 23 the board;

24 (2) ~~shall be~~ verified; and

25 (3) ~~shall be~~ accompanied by ~~the prescribed fee~~; **a fee established**
 26 **by the board under IC 25-1-8-2.**

27 SECTION 20. IC 25-4-1-14 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) Every registered
 29 architect who continues in active practice shall, biennially, on or before
 30 ~~November 2~~; **the date established by the licensing agency under**
 31 **IC 25-1-6-4**, renew the registered architect's certificate of registration
 32 and pay the required renewal fee. ~~Every license or certificate of~~
 33 ~~registration that has not been renewed during the month of November~~
 34 ~~in any year expires on December 1 in that year~~. A registered architect
 35 whose certificate of registration has expired may have the certificate
 36 restored only upon payment of the required ~~restoration~~ fee **under**
 37 **IC 25-1-8-7.**

38 (b) Subject to subsection (c), any architect registered or licensed in
 39 this state who has failed to renew the architect's certificate of
 40 registration for a period of not more than five (5) years may have the
 41 certificate renewed at any time within a period of five (5) years after
 42 the registration expired upon:

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(1) making application to the board for renewal of the registration; and

(2) paying a renewal fee equal to the sum of the renewal fees that the applicant would have paid if the applicant had regularly renewed the applicant's registration during the period that the applicant's registration lapsed: **required under IC 25-1-8-7.**

(c) If any registered architect desires to retire from the practice of architecture in Indiana, the architect may submit to the board the architect's verified statement of intention to withdraw from practice. The statement shall be entered upon the records of the board. During the period of the architect's retirement, the architect is not liable for any renewal or restoration fees. If any retired architect desires to return to the practice of architecture in Indiana within a period of five (5) years from the date that the architect files a statement under this subsection, the retired architect must:

(1) file with the board a verified statement indicating the architect's desire to return to the practice of architecture; and

(2) pay

(A) a renewal fee equal to the fee set by the board to renew an unexpired registration under this chapter. if the retired architect's registration is renewed for one (1) year or more in a biennial renewal cycle established under subsection (a); or
(B) a renewal fee equal to one-half (1/2) the fee set by the board to renew an unexpired registration under this chapter; if the retired architect's registration is renewed for less than one (1) year in a biennial renewal cycle established under subsection (a).

SECTION 21. IC 25-4-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) The fee to be paid by an applicant for an examination to determine his the applicant's fitness to receive a certificate of registration as a registered architect shall be ~~twenty-five dollars (\$25.00): established by the board under IC 25-1-8-2.~~

(b) The fee to be paid by an applicant for a certificate of registration as a registered architect shall be ~~twenty-five dollars (\$25.00): established by the board under IC 25-1-8-2.~~

(c) The fee to be paid for the restoration of an expired certificate of registration as a registered architect shall be ~~one dollar (\$1.00) after the certificate has been in default for one (1) month; and an additional one dollar (\$1.00) for each succeeding month or fraction thereof of such default but not exceeding a maximum restoration fee of ten dollars (\$10.00): Such established under IC 25-1-8-7.~~ The restoration fee

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shall be in addition to all unpaid renewal fees.

(d) The fee to be paid upon renewal of a certificate of registration shall be ~~fifteen dollars (\$15.00)~~; **established by the board under IC 25-1-8-2.**

(e) The fee to be paid by an applicant for a certificate of registration who is an architect registered or licensed under the laws of another state or territory of the United States, or of a foreign country or province, shall be ~~twenty-five dollars (\$25.00)~~; **established by the board under IC 25-1-8-2.**

(f) **In addition to the registration fees established under this section, the board shall establish a fee of not more than twenty dollars (\$20) for registered architects or registered landscape architects to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.**

SECTION 22. IC 25-4-1-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 32. (a) The registered architects and registered landscape architects investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the board.**

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon registered architects and registered landscape architects under section 16(f) of this chapter.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the professional licensing agency to administer and enforce the provisions of this article and to conduct

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1 **investigations and take enforcement action against persons**
 2 **violating the provision of this article.**

3 SECTION 23. IC 25-4-2-3 IS AMENDED TO READ AS
 4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) To qualify for
 5 registration as a landscape architect, an applicant must:

6 (1) submit evidence that the applicant is an individual who is at
 7 least eighteen (18) years of age;

8 (2) submit evidence that the applicant has:

9 (A) graduated from an accredited curriculum of landscape
 10 architecture presented by a college or school approved by the
 11 board; or

12 (B) attained before January 1, 2003, at least eight (8) years of
 13 actual practical experience in landscape architectural work of
 14 a grade and character satisfactory to the board;

15 (3) submit evidence that the applicant has paid the examination
 16 fee and the ~~license~~ **application** fee set by the board;

17 (4) provide an affidavit that indicates that the applicant does not
 18 have a conviction for:

19 (A) an act that would constitute a ground for disciplinary
 20 action under IC 25-1-11; or

21 (B) a felony that has a direct bearing on ~~his~~ **the applicant's**
 22 ability to practice competently;

23 (5) pass the examination required by the board under section 4 of
 24 this chapter after meeting the requirements in subdivisions (1)
 25 through (4); and

26 (6) submit evidence that the applicant has at least three (3) years
 27 of diversified, actual, and practical experience in landscape
 28 architectural work of a grade and character satisfactory to the
 29 board.

30 (b) The board shall issue a certificate of registration under this
 31 chapter to an applicant who meets the requirements in this section.

32 SECTION 24. IC 25-4-2-8 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall
 34 set the fees for issuance of a certificate of registration to a landscape
 35 architect and for the biennial renewal of registration. The fee for
 36 registration and for renewal of registration must be based upon the
 37 administrative costs of registering and regulating landscape architects.
 38 This fee must include the costs for:

39 (1) office facilities, supplies, and equipment; ~~and~~

40 (2) clerical assistance; **and**

41 **(3) the fee for administering and enforcing the provisions of**
 42 **this article as set forth in IC 24-4-1-16(f).**

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(b) **Except as provided in IC 25-4-1-32**, all fees collected under this chapter shall be paid by the Indiana professional licensing agency to the treasurer of state who shall deposit them in the general fund of the state.

SECTION 25. IC 25-6.1-3-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) Every individual, before acting as an auctioneer, must obtain a license from the commission.

(b) An applicant for a license must:

- (1) be at least eighteen (18) years of age;
- (2) have completed at least eighty (80) actual hours of auction instruction from a course provider approved by the commission;
- (3) not have a conviction for:
 - (A) an act which would constitute a ground for disciplinary sanction under IC 25-1-11; or
 - (B) a felony that has a direct bearing on the applicant's ability to practice competently.

(c) Auction instruction required under subsection (b) must provide the applicant with knowledge of all of the following:

- (1) The value of real estate and of various goods commonly sold at an auction.
- (2) Bid calling.
- (3) Sale preparation, sale advertising, and sale summary.
- (4) Mathematics.
- (5) The provisions of this article and the commission's rules.
- (6) Any other subject matter approved by the commission.

(d) An individual seeking an initial license as an auctioneer under this article shall file with the commission a completed application on the form prescribed by the commission. When filing an ~~initial~~ application for an auctioneer license, each individual shall

- ~~(1) pay a nonrefundable examination fee of thirty-five dollars (\$35) established by the commission under IC 25-1-8-2. and~~
- ~~(2) pay a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.~~

(e) When ~~filing an application~~ **applying** for a renewal of an auctioneer license, each individual shall do the following:

- ~~(1) File with the commission a completed application on the form prescribed~~ **Apply in a manner required** by the commission, including certification by the applicant that the applicant has complied with the requirements of IC 25-6.1-9-8, unless the commission has granted the applicant a waiver under IC 25-6.1-9-9.

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(2) Pay the license fee prescribed by section 5 of this chapter.

(f) Upon the receipt of a completed application for an initial or a renewal license, the commission shall examine the application and verify the information contained therein.

(g) An applicant who is seeking an initial license must pass an examination ~~prepared and administered~~ **approved** by the commission **that covers subjects and topics of knowledge required to practice as an auctioneer.** The commission shall hold examinations as the commission may prescribe. ~~The examination for an auctioneer's license shall include questions on the applicant's:~~

(1) ability to read and write;

(2) knowledge of the value of real estate and of various goods commonly sold at an auction;

(3) knowledge of calling;

(4) knowledge of sale preparation; sale advertising; and sale summary;

(5) knowledge of mathematics; and

(6) knowledge of the provisions of this article and the commission's rules.

(h) The commission shall issue an auctioneer's license, in such form as it may prescribe, to each individual who meets all of the requirements for licensing and pays the appropriate fees.

(i) Auctioneer licenses shall be issued for a term of four (4) years. A license expires at midnight ~~February 28, 2004;~~ **on the date established by the licensing agency under IC 25-1-6-4** and every fourth year thereafter, unless renewed before that date. If the license has expired, it may be reinstated not more than one (1) year after the date it expired upon the payment of the renewal fee plus the ~~sum of twenty-five dollars (\$25)~~ **reinstatement fee established under IC 25-1-8-7** and submission of proof that the applicant has complied with the continuing education requirement. If the license has expired for a period of more than one (1) year, the person must file an application and take the required examination. However, an applicant for ~~restoration~~ **reinstatement** of an expired license is not required to complete the initial eighty (80) hour education requirement under this section in order to ~~restore~~ **reinstate** the expired license. The holder of an expired license shall cease to display the original wall certificate at the holder's place of business and shall return the wall certificate to the commission upon notification by the commission of the expiration of the holder's license.

(j) The commission may waive the requirement that a nonresident applicant pass an examination and that the nonresident submit written

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statements by two (2) individuals, if the nonresident applicant:

(1) is licensed to act as an auctioneer in the state of the applicant's domicile;

(2) submits with the application a duly certified letter of certification issued by the licensing board of the applicant's domiciliary state;

(3) is a resident of a state whose licensing requirements are substantially equal to the requirements of Indiana;

(4) is a resident of a state that grants the same privileges to the licensees of Indiana; and

(5) includes with the application an irrevocable consent that actions may be commenced against the applicant. The consent shall stipulate that service of process or pleadings on the commission shall be taken and held in all courts as valid and binding as if service of process had been made upon the applicant personally within this state. If any process or pleading mentioned in this subsection is served upon the commission, it shall be by duplicate copies. One (1) of the duplicate copies shall be filed in the office of the commission and one (1) shall be immediately forwarded by the commission by registered or certified mail to the applicant against whom the process or pleadings are directed.

(k) The commission may enter into a reciprocal agreement with another state concerning nonresident applicants.

(l) The commission may, for good cause shown, upon the receipt of an application for a license, issue a temporary permit for such reasonable period of time, not to exceed one (1) year, as the commission deems appropriate. A temporary permit has the same effect as a license and entitles and subjects the permittee to the same rights and obligations as if the individual had obtained a license.

(m) An applicant for a temporary permit must do the following:

(1) File an examination application.

(2) Pass the examination at one (1) of the next two (2) regularly scheduled examinations.

(n) An individual who does not pass the examination required under subsection (m) may not be issued a temporary permit.

SECTION 26. IC 25-6.1-3-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. ~~(a)~~ At the time of obtaining a license under this chapter, the licensee shall pay:

(1) the license fee prescribed by this section established by the commission under IC 25-1-8-2; and

(2) a surcharge under IC 25-6.1-8 for deposit in the auctioneer recovery fund.

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(b) The fee for the license issued to any person, auction company, or auction house during each licensing period is seventy dollars (\$70).

(c) The commission may adopt rules that provide for the payment of a proportionate amount of the licensing fee if a license will be issued for less than the full term of the license.

SECTION 27. IC 25-6.1-3-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The commission may charge the fee established under IC 25-1-8-2 as the cost of providing duplicate licenses to replace lost or destroyed licenses.

(b) The commission may charge ~~five dollars (\$5)~~ **as the a fee established under IC 25-1-8-2 for the cost of certified copies of licenses, which may include certified copies of a type and size which can be easily carried on the person of the licensee: verifying a license to another state.**

SECTION 28. IC 25-6.1-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. A licensee who is initially licensed in the ~~second~~ **fourth** year of a renewal period is exempt from the continuing education requirement under this chapter for that renewal period.

SECTION 29. IC 25-7-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. (a) If the board determines that:

(1) a person possesses a valid license from another jurisdiction to perform acts that require a license under this article; and

(2) the jurisdiction issuing the license imposes substantially equivalent requirements on applicants for the license as are imposed on applicants for an Indiana license;

the board may issue a license to perform those acts in Indiana to the person upon payment of the fee ~~required under 816 IAC 1-3-1.~~ **established by the board under IC 25-1-8-2.**

(b) This subsection applies only to applications for a barber license under IC 25-7-10. If the jurisdiction issuing the license does not impose substantially equivalent requirements as required under subsection (a)(2), the board may approve a combination of education hours plus actual licensed practice in the other jurisdiction when issuing a license to a person from that jurisdiction. One (1) year of licensed practice is equal to one hundred (100) hours of education to an applicant who has completed a minimum of one thousand (1,000) hours of education.

SECTION 30. IC 25-7-6-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. An expired barber license may be ~~restored~~ **reinstated** by payment of the ~~restoration fee plus all unpaid reinstatement and renewal fees~~ **required under**

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IC 25-1-8-2 and IC 25-1-8-7 within five (5) years of the expiration date of the license. After five (5) years from the date that a barber license expires under this section, the person whose license has expired may ~~restore~~ **reinstate** the license only by:

- (1) applying for ~~restoration~~ **reinstatement** of the license;
- (2) paying the ~~fee~~ **fees** set forth under IC 25-7-11 and **IC 25-1-8-7**; and
- (3) taking the same examination required under IC 25-7-10 for an applicant for a license to practice as a registered barber.

SECTION 31. IC 25-7-6-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) If a person does not receive a satisfactory grade on the examination described in section 14(3) of this chapter, the board may deny the petition to ~~restore~~ **reinstate** the license.

(b) The board may ~~restore~~ **reinstate** a license held by a person described in subsection (a) if the person complies with rules adopted by the board to permit further examination of the person for license ~~restoration~~. **reinstatement**.

SECTION 32. IC 25-7-10-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The board may not:

- (1) renew or ~~restore~~ **reinstate** a work permit; or
- (2) grant a person more than one (1) work permit; issued under section 7 of this chapter.

SECTION 33. IC 25-7-11-2 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2. (a) The board shall charge a fee of three hundred dollars (\$300) for an application to issue or renew a barber school license. ~~adopt rules under IC 4-22-2 to establish fees for the application, issuance, and renewal of barber school licenses under IC 25-1-8-2.~~

(b) In addition to the fee charged under subsection (a), the board shall charge a fee for ~~restoring~~ **reinstating** a barber school license **under IC 25-1-8-7**.

(c) The fee charged under subsection (b) shall be determined by the date that the applicant applies for the restoration of the license as follows:

| Number of days following expiration of license | Fee |
|---|-------|
| 0-30 | \$0 |
| 31-180 | \$150 |
| 181-191 | \$200 |

(d) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees.

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(~~e~~) (c) A barber school license may not be ~~restored~~ **reinstated** if at least one ~~hundred ninety-two (192) days have~~ **(1) year has** passed since the license expired. However, the barber school may obtain a new license by:

- (1) making application;
- (2) meeting the requirements for licensure; and
- (3) paying a fee of ~~four hundred dollars (\$400)~~ **established by the board under IC 25-1-8-2.**

SECTION 34. IC 25-7-11-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (~~a~~) The board shall charge a fee of forty dollars (\$40) to issue or renew an instructor license:

(b) To restore an expired barber instructor license, the board shall charge a fee of seventy-five dollars (\$75) plus all unpaid renewal fees:

(c) The board shall charge a fee of fifty dollars (\$50) for providing an examination to an applicant for a barber instructor license: **adopt rules under IC 4-22-2 to establish fees related to an instructor's license under IC 25-1-8-2.**

SECTION 35. IC 25-7-11-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall charge a fee of forty dollars (\$40) for issuing or renewing a barber shop license:

(b) The board shall charge a fee for restoring a barber shop license that shall be determined by the date that the applicant applies for the restoration of the license as follows:

| Number of days following expiration of license | Fee |
|---|------------------|
| 0-30 | \$ 10 |
| 31-180 | \$ 50 |
| 181-191 | \$100 |

(c) The fee charged under subsection (b) shall be accompanied by all unpaid renewal fees: **adopt rules under IC 4-22-2 to establish fees related to barber shop licenses under IC 25-1-8-2.**

(~~d~~) (b) A barber shop license may not be ~~restored~~ **reinstated** if at least one ~~hundred ninety-two (192) days have~~ **(1) year has** passed since the license expired. However, the barber shop may obtain a new license by:

- (1) making application;
- (2) meeting the requirements for licensure; and
- (3) paying a fee of ~~one hundred forty dollars (\$140)~~ **the fees established under IC 25-1-8-2.**

SECTION 36. IC 25-7-11-5 IS AMENDED TO READ AS

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FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall charge a fee of at least thirty dollars (\$30) and not more than fifty dollars (\$50) establish fees under IC 25-1-8-2 for providing an examination to an applicant for a barber license.

(b) The board shall charge a fee of forty dollars (\$40) establish fees under IC 25-1-8-2 for issuing or renewing a barber license.

(c) The board shall charge a fee for restoring established under IC 25-1-8-7 for reinstating a barber license. that shall be determined by the date that the applicant applies for the restoration of the license as follows:

| Number of days following expiration of license | Fee |
|---|-------|
| 0-30 | \$ 10 |
| 31-181 | \$ 50 |
| 182-5 years | \$100 |

(d) The fee charged under subsection (c) shall be accompanied by all unpaid renewal fees:

SECTION 37. IC 25-7-11-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The board shall charge establish a fee of ten dollars (\$10) under IC 25-1-8-2 for issuing a duplicate license.

SECTION 38. IC 25-7-12-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The board may under IC 4-21.5:

(1) refuse to issue, renew, or restore reinstate a license issued under this article; or

(2) suspend or revoke a license issued under this article; if the board determines that the applicant or license holder has not complied with IC 25-1-11.

SECTION 39. IC 25-8-4-21 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. Except as provided in IC 25-8-9-11, the board may, upon application, restore reinstate a license under this chapter that has expired if the person holding the license:

(1) pays any unpaid renewal fees to established by the board under IC 25-1-8-2;

(2) pays the license restoration reinstatement fee set forth in IC 25-8-13; established under IC 25-1-8-7;

(3) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being restored reinstated, other than receiving a satisfactory grade (as defined in section 9 of this chapter) on an

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examination prescribed by the board; and

(4) fulfills the continuing education requirements under IC 25-8-15.

SECTION 40. IC 25-8-4-22 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Except as provided in subsection (b), the board may not ~~restore~~ **reinstate** a license issued under this article if the person holding the license does not petition for license renewal within three (3) years after the expiration of the license, unless that person complies with section 23 of this chapter.

(b) The board may not ~~restore~~ **reinstate**:

(1) a cosmetology salon license issued under IC 25-8-5;

(2) an electrology salon license issued under IC 25-8-7.2;

(3) an esthetician salon license issued under IC 25-8-12.6;

(4) a manicurist salon license issued under IC 25-8-7.1; or

(5) a cosmetology school license issued under IC 25-8-7;

unless the license holder submits an application for ~~restoration~~ **reinstatement** of the license within six (6) months after the date the license expired.

SECTION 41. IC 25-8-4-23 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. The board may ~~restore~~ **reinstate** a license issued under this article held by a person described in section 22(a) of this chapter if the applicant:

(1) receives a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;

(2) pays the examination fee set forth in IC 25-8-13;

(3) pays the ~~restoration reinstatement~~ fee ~~set forth in IC 25-8-13;~~ **established under IC 25-1-8-7**; and

(4) complies with all requirements imposed by this article on an applicant for an initial license to perform the acts authorized by the license being ~~restored~~ **reinstated**.

SECTION 42. IC 25-8-4-24 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. If a person does not receive a satisfactory grade on the examination described in section 23 of this chapter, the board may not ~~restore~~ **reinstate** that person's license until the person has:

(1) successfully completed the cosmetology school program required for an applicant for a license issued under this article to perform the acts authorized by the license being ~~restored~~ **reinstated**;

(2) received a satisfactory grade (as defined in section 9 of this chapter) on an examination prescribed by the board;

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- 1 (3) paid the examination fee set forth in IC 25-8-13;
 2 (4) paid the license fee set forth in IC 25-8-13; and
 3 (5) complied with all requirements imposed by this article on an
 4 applicant for an initial license to perform the acts authorized by
 5 the license being ~~restored~~; **reinstated**.

6 SECTION 43. IC 25-8-4-25 IS AMENDED TO READ AS
 7 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 25. If a person does not
 8 receive a satisfactory grade on the examination described in section
 9 24(2) of this chapter, the board may deny the petition to ~~restore~~
 10 **reinstate** the license.

11 SECTION 44. IC 25-8-4-26 IS AMENDED TO READ AS
 12 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 26. The board may
 13 ~~restore~~ **reinstate** a license held by a person described in section 25 of
 14 this chapter if that person complies with any rules adopted by the board
 15 to permit further examination of that person for license ~~restoration~~;
 16 **reinstatement**.

17 SECTION 45. IC 25-8-4-27 IS AMENDED TO READ AS
 18 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 27. If a person holding
 19 a license described in section 22(b) of this chapter does not comply
 20 with the ~~restoration~~ **reinstatement** application filing requirements set
 21 forth in that section, that person may:

- 22 (1) file an application for a new license to operate:
 23 (A) a cosmetology salon;
 24 (B) an electrology salon;
 25 (C) an esthetic salon;
 26 (D) a manicurist salon; or
 27 (E) a cosmetology school;
 28 under this article; and
 29 (2) pay the ~~restoration~~ **reinstatement** fee set forth in:
 30 (A) IC 25-8-13-3; or
 31 (B) IC 25-8-13-5(b).

32 SECTION 46. IC 25-8-9-11 IS AMENDED TO READ AS
 33 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. The board may not
 34 renew or ~~restore~~ **reinstate** a license issued under section 7 of this
 35 chapter.

36 SECTION 47. IC 25-8-13-3 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The board shall
 38 charge a fee of ~~four hundred dollars (\$400)~~ **established by the board**
 39 **under IC 25-1-8-2** for an application to issue or renew a cosmetology
 40 school license.

41 (b) The board shall charge a fee **established under IC 25-1-8-7** for
 42 ~~restoring~~ **reinstating** a cosmetology school license. ~~The restoration fee~~

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shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:

| Days Following Expiration of License | Fee |
|---|-------|
| 1= 30 | \$200 |
| 31= 180 | 300 |
| More than 180 | 400 |

SECTION 48. IC 25-8-13-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The board shall charge a fee ~~of forty dollars (\$40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

- (1) a cosmetology instructor license;
- (2) an esthetics instructor license; or
- (3) an electrology instructor license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for restoring ~~reinstating~~ an instructor license. The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:

| Days Following Expiration of License | Fee |
|---|-------|
| 1= 30 | \$ 20 |
| 31= 180 | 30 |
| More than 180 | 40 |

SECTION 49. IC 25-8-13-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall charge a fee ~~of forty dollars (\$40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing:

- (1) a cosmetology salon license;
- (2) an electrology salon license;
- (3) an esthetic salon license; or
- (4) a manicurist salon license.

(b) The board shall charge a fee **established under IC 25-1-8-7** for restoring: **reinstating:**

- (1) a cosmetology salon license;
- (2) an electrology salon license;
- (3) an esthetic salon license; or
- (4) a manicurist salon license.

(c) The fee charged under subsection (b) shall be determined by the date that the applicant applies for the restoration of the license as follows:

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1 established by the board under IC 25-1-8-2 for issuing an Indiana
2 cosmetologist license to a person who holds a license from another
3 jurisdiction that meets the requirements set forth in IC 25-8-4-2.

4 SECTION 52. IC 25-8-13-8 IS AMENDED TO READ AS
5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall
6 charge a fee of ~~twenty-five dollars (\$25)~~ **established by the board**
7 **under IC 25-1-8-2** for providing an examination to an applicant for an
8 electrologist license.

9 (b) The board shall charge a fee of ~~forty dollars (\$40)~~ **established**
10 **by the board under IC 25-1-8-2** for issuing or renewing an
11 electrologist license.

12 (c) The board shall charge a fee **established under IC 25-1-8-7** for
13 **restoring reinstating** an electrologist license. ~~The restoration fee shall~~
14 ~~be assessed in addition to the fee charged for renewing the license. The~~
15 ~~fee must be determined according to the date that the applicant applies~~
16 ~~for the restoration of the license as follows:~~

| Days Following | Fee |
|----------------|-------|
| 1- 30 | \$ 20 |
| 31- 180 | 30 |
| More than 180 | 40 |

22 (d) The board shall charge a fee of ~~one hundred dollars (\$100)~~
23 **established by the board under IC 25-1-8-2** for issuing a license to
24 a person who holds an electrologist license from another jurisdiction
25 that meets the requirements under IC 25-8-4-2.

26 SECTION 53. IC 25-8-13-9 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. (a) The board shall
28 charge a fee of ~~ten dollars (\$10)~~ **established by the board under**
29 **IC 25-1-8-2** for providing an examination to an applicant for a
30 manicurist license.

31 (b) The board shall charge a fee of ~~forty dollars (\$40)~~ **established**
32 **by the board under IC 25-1-8-2** for issuing or renewing a manicurist
33 license.

34 (c) The board shall charge a fee **required under IC 25-1-8-7** for
35 **restoring reinstating** a manicurist license. ~~The restoration fee shall be~~
36 ~~assessed in addition to the fee charged for renewing the license. The~~
37 ~~fee must be determined according to the date that the applicant applies~~
38 ~~for the restoration of the license as follows:~~

| Days Following | Fee |
|----------------|-------|
| 1- 30 | \$ 20 |
| 31- 180 | 30 |



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~~More than 180~~

~~40~~

(d) The board shall charge a fee ~~of one hundred dollars (\$100)~~ **established by the board under IC 25-1-8-2** for issuing a license to a person who holds a manicurist license from another jurisdiction that meets the requirements under IC 25-8-4-2.

SECTION 54. IC 25-8-13-10 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 10. (a) The board shall charge a fee ~~of twenty dollars (\$20)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for a shampoo operator license.

(b) The board shall charge a fee ~~of forty dollars (\$40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing a shampoo operator license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for restoring ~~reinstating~~ a shampoo operator license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~

~~Expiration of License~~

~~Fee~~

~~1- 30~~

~~\$ 20~~

~~31- 180~~

~~30~~

~~More than 180~~

~~40~~

SECTION 55. IC 25-8-13-11 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 11. (a) The board shall charge a fee ~~of twenty-five dollars (\$25)~~ **established by the board under IC 25-1-8-2** for providing an examination to an applicant for an esthetician license.

(b) The board shall charge a fee ~~of forty dollars (\$40)~~ **established by the board under IC 25-1-8-2** for issuing or renewing an esthetician license.

(c) The board shall charge a fee **established under IC 25-1-8-7** for restoring ~~reinstating~~ an esthetician license. ~~The restoration fee shall be assessed in addition to the fee charged for renewing the license. The fee must be determined according to the date that the applicant applies for the restoration of the license as follows:~~

~~Days Following~~

~~Expiration of License~~

~~Fee~~

~~1- 30~~

~~\$ 20~~

~~31- 180~~

~~30~~

~~More than 180~~

~~40~~

(d) The board shall charge a fee ~~of one hundred dollars (\$100)~~

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1 **established by the board under IC 25-1-8-2** for issuing a license to
 2 a person who holds an esthetician license from another jurisdiction that
 3 meets the requirements under IC 25-8-4-2.

4 SECTION 56. IC 25-8-14-1 IS AMENDED TO READ AS
 5 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. The board may under
 6 IC 4-21.5 refuse to issue, renew, or ~~restore~~ **reinstate** a license issued
 7 under this article if it determines that the applicant or license holder
 8 has not complied with IC 25-1-11.

9 SECTION 57. IC 25-8-15.4-6 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. To obtain a license
 11 to operate a tanning facility, a person must do the following:

12 (1) Submit an application to the board on a form prescribed by the
 13 board.

14 (2) Pay a fee ~~of two hundred dollars (\$200)~~ **established by the**
 15 **board under IC 25-1-8-2.**

16 SECTION 58. IC 25-8-16-3 IS AMENDED TO READ AS
 17 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. If an inactive
 18 cosmetology professional intends to apply for ~~restoration~~
 19 **reinstatement** of the professional's license, the cosmetology
 20 professional shall notify the board of that intent. The board may ~~restore~~
 21 **reinstate** the cosmetology professional's license upon notification and
 22 receipt of:

23 (1) an application; and

24 (2) evidence of completion during the preceding four (4) years of
 25 at least sixteen (16) hours of continuing education in a continuing
 26 education course approved by the board under IC 25-8-15.

27 SECTION 59. IC 25-9-1-20 IS AMENDED TO READ AS
 28 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 20. (a) The commission
 29 shall, upon application to the Indiana professional licensing agency,
 30 grant licenses to competent referees and judges whose qualifications
 31 may be tested by the commission, and the commission may revoke any
 32 such license granted to any referee or judge upon such cause as the
 33 commission may deem sufficient. Such license must be renewed
 34 biennially. No person shall be permitted to act as referee or judge in
 35 Indiana unless holding such license.

36 (b) The application for license as referee, or renewal thereof, shall
 37 be accompanied by a fee ~~which shall not be less than twenty-five~~
 38 ~~dollars (\$25)~~ **established by the commission under IC 25-1-8-2.**

39 (c) The commission shall appoint from among such licensed
 40 officials, all officials for all contests held under this chapter.

41 SECTION 60. IC 25-15-6-4 IS AMENDED TO READ AS
 42 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall

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1 ~~restore~~ **reinstate** the expired license of an individual who:

- 2 (1) was licensed as a funeral director or embalmer;
- 3 (2) applies for ~~restoration~~ **reinstatement** of the funeral director
- 4 license or embalmer license within two (2) years or four (4) years
- 5 of the date that the license expired as set by the board;
- 6 (3) pays a fee ~~that is equal to:~~
- 7 (A) the fee set by the board for renewal of a funeral director
- 8 license or embalmer license; or
- 9 (B) the fee set by the board for renewal of a funeral director
- 10 license or embalmer license multiplied by the product of two
- 11 (2) times the number of six (6) month periods that have
- 12 elapsed from the date that the license expired;
- 13 ~~whichever is greater;~~ **established under IC 25-1-8-7;** and
- 14 (4) meets the continuing education requirements set by the board.

15 SECTION 61. IC 25-15-6-5 IS AMENDED TO READ AS
 16 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall
 17 require a funeral director to obtain ten (10) hours of continuing
 18 education credit in any two (2) year period in order to renew or ~~restore~~
 19 **reinstate** a license under this chapter. The board shall require that
 20 continuing education credit be earned in board approved courses or
 21 programs on one (1) or more of the following subjects:

- 22 (1) Embalming and restorative arts.
- 23 (2) Prevention of the spread of infectious disease and compliance
- 24 with mandatory public health requirements.
- 25 (3) Federal and state laws and rules regulating the embalming and
- 26 funeral professions.
- 27 (4) Funeral home management.
- 28 (5) Religion.
- 29 (6) Natural science.
- 30 (7) Grief counseling and the psychological effect of death on
- 31 survivors.

32 (b) Continuing education hours earned as a prerequisite to the
 33 issuance or maintenance of a professional license other than a funeral
 34 director license may not be counted in determining compliance with
 35 this section.

36 SECTION 62. IC 25-15-6-6 IS AMENDED TO READ AS
 37 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. The board may
 38 ~~restore~~ **reinstate** the license of:

- 39 (1) a person that has allowed a funeral home license to expire
- 40 only if the person reapplies for a funeral home license, pays ~~an~~
 41 ~~additional~~ a fee ~~set by the board;~~ **established under IC 25-1-8-7,**
- 42 and otherwise meets the requirements in IC 25-15-4-1;

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(2) an individual whose funeral director intern license has expired only if the individual reapplies for a funeral director intern license, takes another examination, if required by the board, pays ~~an additional a fee set by the board,~~ **established under IC 25-1-8-7**, and otherwise meets the requirements in IC 25-15-4-2; or

(3) an individual whose funeral director license has expired after the time set in section 4 of this chapter has run only if the individual reapplies for a funeral director license, takes another examination, pays ~~an additional a fee set by the board,~~ **established under IC 25-1-8-7**, and otherwise meets the requirements in IC 25-15-4-3(b).

The board may not ~~restore~~ **reinstate** an embalmer license or a funeral director license for a person qualified only under IC 25-15-4-3(d) after the time set under section 4 of this chapter has expired.

SECTION 63. IC 25-15-6-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) A funeral director who holds an inactive funeral director license under IC 25-15-4-6 is exempt from continuing education requirements of section 5 of this chapter.

(b) An individual may reactivate an inactive funeral director's license by completing all hours of continuing education required of licensed funeral directors for each year that the license has been classified as inactive. If an individual's license has been inactive for four (4) or more years, the board shall require the individual to pass an examination under IC 25-15-4 before ~~restoring~~ **reinstating** the individual's license to active status.

(c) An individual who resumes the practice of funeral service or the provision of funeral services to the public under an inactive funeral director license (as described in IC 25-15-4-6) violates this article and the board shall revoke the individual's inactive license.

SECTION 64. IC 25-15-9-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. The board's appointed members may serve only two (2) terms on the board, including prior service either as a member of the state board of funeral service or the state board of embalmers and funeral directors. **A member of the board may serve until the member's successor is appointed and qualified under this chapter.**

SECTION 65. IC 25-20.2-6-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. A license for a home inspector issued under this article expires ~~two (2) years after the date of issuance;~~ **on a date established by the licensing agency under**

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IC 25-1-6-4 and shall be renewed biennially upon payment of the required renewal fees.

SECTION 66. IC 25-20.2-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

~~(2) Establish a fee for each hour of continuing education that is required after a license is issued or renewed.~~

~~(3)~~ **(2)** Prescribe the content, duration, and organization of continuing education courses that contribute to the general competence of home inspectors.

SECTION 67. IC 25-20.7 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 20.7. INTERIOR DESIGNERS

Chapter 1. Application

Sec. 1. This article applies to a person who practices interior design after December 31, 2005.

Sec. 2. This article does not apply to an owner or employee of a retail establishment who provides consultation regarding interior decoration or furnishing:

(1) on the premises of the retail establishment; or

(2) for the purposes of an actual or prospective retail sale.

Sec. 3. This article does not apply to a person who:

(1) does not profess to be a registered interior designer; and

(2) is:

(A) an architect licensed under IC 25-4; or

(B) a professional engineer licensed under IC 25-31.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "ARE" refers to the Architectural Registration Exam.

Sec. 3. "Interior design" means client consultation and preparation and administration of design documents that include:

(1) design studies;

(2) drawings;

(3) schedules;

(4) specifications; and

(5) contracts;

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relating to nonstructural and nonseismic interior elements of a building or structure. The term includes design documents for space plans, reflected ceiling plans, fire codes, permits, entrances, egress, ergonomics, and the design or specification of fixtures, furnishings, equipment, cabinetry, lighting, materials, finishes, and interior construction that does not materially affect the building system. The term does not include the architectural and engineering design of interior construction.

Sec. 4. "Interior designer" means a person who practices interior design.

Sec. 5. "NCIDQ" refers to the National Council for Interior Design Qualification.

Sec. 6. "Nonstructural or nonseismic" means interior elements or components that:

- (1) are not load bearing or do not assist in the seismic design;
- (2) do not require design computations for the structure of a building; and
- (3) do not include the structural frame system supporting a building.

This term includes ceiling and partition systems that employ normal and typical bracing conventions and are not part of the structural integrity of the building.

Sec. 7. "Out-of-state applicant" means an individual who is:

- (1) an interior designer registered or licensed under the laws of another state, a foreign country, or a province in a foreign country; and
- (2) an applicant for a certificate of registration under this article.

Sec. 8. "Reflected ceiling plan" means a ceiling design that illustrates a ceiling as if the ceiling was projected downward and may include lighting elements.

Sec. 9. "Registered interior designer" means a person registered under this article.

Sec. 10. "Secretary of state" means the office of the secretary of state.

Sec. 11. "Space planning" means the analysis of design of spatial and occupancy requirements, including space layouts and final planning.

Chapter 3. Registration Requirements

Sec. 1. (a) The secretary of state shall maintain a registry of all interior designers who:

- (1) apply for and meet the registration requirements under

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1 this article; and

2 (2) pay the annual registration fee.

3 (b) The registry shall:

4 (1) be maintained in an electronic format; and

5 (2) include the:

6 (A) name of each registered interior designer; and

7 (B) date that the interior designer registered with the
8 secretary of state.

9 Sec. 2. The secretary of state shall issue a certificate of
10 registration to an interior designer who does the following:

11 (1) Applies for the registration on a form prescribed by the
12 secretary of state.

13 (2) Meets the requirements of this article.

14 (3) Pays the registration fee under section 5 of this chapter.

15 Sec. 3. The secretary of state shall issue a certificate of
16 registration to an applicant who satisfies section 2 of this chapter
17 and the following:

18 (1) Meets one (1) of the following requirements:

19 (A) Completes a degree in interior design or similar
20 discipline from an accredited college or university.

21 (B) Obtains:

22 (i) four (4) years of interior design higher education and
23 two (2) years of full-time work experience;

24 (ii) three (3) years of interior design higher education
25 and three (3) years of full-time work experience in
26 interior design; or

27 (iii) two (2) years of interior design education and four
28 (4) years of full-time work experience in interior design.

29 (2) Except as provided in section 4 of this chapter, an
30 applicant must pass the examination administered by the
31 NCIDQ or the ARE.

32 Sec. 4. The examination requirement under section 3(2) of this
33 chapter is waived if the applicant holds:

34 (1) a valid license or certificate in interior design from an
35 authority in another jurisdiction that has standards
36 substantially equivalent to this article; and

37 (2) a current certificate issued by the NCIDQ or
38 documentation of the successful completion of the ARE.

39 Sec. 5. (a) The secretary of state shall collect the following fees
40 under this article:

41 (1) An initial registration fee of one hundred dollars (\$100).

42 (2) A biennial renewal fee of one hundred dollars (\$100).

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(3) A restoration fee of three hundred dollars (\$300).

(b) The fees collected by the secretary of state under this article shall be deposited into the electronic and enhanced access fund established by IC 4-5-10-5.

Sec. 6. To qualify for registration under this article, the applicant must not have a conviction for:

(1) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or

(2) a felony that has a direct bearing on the applicant's ability to practice competently.

Sec. 7. (a) This section applies only to an out-of-state applicant.

(b) The secretary of state shall grant a certificate of registration to an out-of-state applicant upon the following conditions:

(1) The applicant must be at least eighteen (18) years of age and must not have been convicted of:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or

(B) a felony that has a direct bearing on the applicant's ability to practice competently.

(2) The applicant must:

(A) pass the examination administered by the NCIDQ or the ARE; or

(B) hold a current valid license or certificate of registration in interior design from an authority in another jurisdiction that has standards substantially equivalent to this article.

(3) The applicant must pay fees established by the board.

Sec. 8. A registered interior designer shall display the certificate of registration in a conspicuous place:

(1) in the principal office;

(2) of business; or

(3) of employment;

of the registered interior designer.

Sec. 9. (a) A registered interior designer shall have a seal or design authorized by the secretary of state, the impression of which must contain:

(1) the name of the interior designer;

(2) the words, "registered interior designer" and "state of Indiana"; and

(3) the expiration date of the certification.

(b) A registered interior designer must place the seal described in subsection (a) and signature of the registered interior designer on any interior design construction documents issued by the

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registered interior designer and filed for public record for purposes of obtaining a building permit, including:

- (1) drawings;
- (2) plans;
- (3) specifications; and
- (4) reports.

(c) If a certificate of registration is suspended or revoked, the interior designer shall return the seal to the secretary of state not later than thirty (30) days after the date the certificate was revoked or suspended. The secretary of state shall return the seal to the interior designer if the suspension is removed.

Sec. 10. Notwithstanding section 3 of this chapter, a person may be registered with the secretary of state and issued a certificate of registration after completion of the requirements of section 2 of this chapter if the person provides proof to the secretary of state that:

- (1) the person has:
 - (A) received two (2) to four (4) years of education in interior design; and
 - (B) practiced in the field of interior design for at least ten (10) years; or
- (2) the person has practiced interior design for at least fifteen (15) years.

However, a person registered under this section may not place a seal and signature on interior design construction documents as set forth in section 9(b) of this chapter for the purpose of obtaining a building permit unless the person has passed the examination administered by the NCIDQ or the ARE.

Chapter 4. Renewal of Certification

Sec. 1. An individual who applies to renew a certificate of registration as an interior designer must:

- (1) furnish evidence showing successful completion of the continuing education requirements under section 3 of this chapter; and
- (2) pay the renewal fee established under IC 25-20.7-3-5.

Sec. 2. (a) Renewal notices must be sent in accordance with IC 25-1-2-6(c).

(b) The renewal fee must be paid in accordance with IC 25-1-8-2(d).

Sec. 3. Each registered interior designer must complete at least twelve (12) hours of continuing education in interior design or a discipline related to the practice of interior design for the renewal

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of a certificate under this chapter.

Sec. 4. (a) A registered interior designer who continues to actively practice interior design shall:

(1) renew the certification within ninety (90) days before the expiration of the certificate; and

(2) pay the renewal fee under IC 25-20.7-3-5.

(b) A registered interior designer whose certificate has expired may have the certificate restored only upon payment of the restoration fee under IC 25-20.7-3-5.

(c) Subject to subsection (d), an interior designer registered under this article who has failed to renew the interior designer's certificate for a period of not more than five (5) years from the date the certificate expired may have the certificate renewed at any time within the five (5) year period after the certification expired upon:

(1) making application to the board for renewal of the certification; and

(2) paying a renewal fee equal to the sum of the renewal fees that the applicant would have paid if the applicant had regularly renewed the certification during the period that the certification lapsed.

(d) If a registered interior designer desires to retire from the practice of interior design in Indiana, the interior designer may submit to the secretary of state a verified statement of intention to withdraw from practice. The statement shall be entered in the records of the secretary of state. During the period of the interior designer's retirement, the interior designer is not liable for any renewal or restoration fees. If a retired interior designer desires to return to the practice of interior design in Indiana not later than a period of five (5) years after the date that the interior designer files a statement under this subsection, the retired interior designer must:

(1) file with the secretary of state a verified statement indicating the interior designer's desire to return to the practice of interior design; and

(2) pay:

(A) the renewal fee under IC 25-20.7-3-5 to renew an unexpired certification under this chapter, if the retired interior designer's certification is renewed for one (1) year or more in a biennial renewal cycle; or

(B) a renewal fee equal to one-half (1/2) the fee under IC 25-20.7-3-5 to renew an unexpired certification under

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1 this chapter, if the retired interior designer's certification
2 is renewed for less than one (1) year in a biennial renewal
3 cycle.

4 Sec. 5. The secretary of state shall keep a register of all
5 applicants for certification showing for each applicant:

- 6 (1) the dates of application;
- 7 (2) the name, age, and other qualifications;
- 8 (3) the place of business;
- 9 (4) the place of residence;
- 10 (5) whether the applicant was denied or granted a certificate
11 of registration under this article; and
- 12 (6) the date the applicant was denied or granted a certificate
13 of registration.

14 Sec. 6. (a) A person may not use the title "registered interior
15 designer" in Indiana or any title designation sign, card, or device
16 indicating that the person is a registered interior designer unless
17 the person has registered with the secretary of state under this
18 article.

19 (b) A person may not:

- 20 (1) present as the person's own the certificate of registration
21 or the seal of another;
- 22 (2) give any false or forged evidence of any kind to the
23 secretary of state or in obtaining a certificate of registration;
- 24 (3) impersonate any other registrant;
- 25 (4) use an expired, suspended, or revoked certificate of
26 registration.

27 (c) A violation of this section is a Class B misdemeanor.

28 Sec. 7. The secretary of state may suspend or revoke a
29 certificate of registration for a violation under section 6(b) of this
30 chapter.

31 Sec. 8. This article does not prevent an interior designer from
32 practicing interior design if the person does not use the designation
33 under section 6 of this chapter.

34 Sec. 9. (a) If an interior designer has a civil judgment entered
35 against the interior designer by a court of competent jurisdiction
36 in a civil judicial proceeding for negligence, recklessness, willful
37 misconduct, or other breach of standard of care in the practice of
38 interior design, the secretary of state shall immediately withdraw
39 the interior designer's certificate of registration under this article.

40 (b) An interior designer who has a civil judgment described in
41 subsection (a) entered against the interior designer is ineligible to
42 be registered under this article.

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1 SECTION 68. IC 25-21.5-2-14 IS AMENDED TO READ AS
 2 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The board shall
 3 enforce and administer this article.

4 (b) The board shall adopt rules under IC 4-22-2 that are reasonably
 5 necessary to implement this article, **including for the administration**
 6 **of the registered land surveyor and registered land surveyor in**
 7 **training investigative fund established under IC 25-21.5-11-4**, and
 8 establish standards for the competent practice of land surveying.

9 SECTION 69. IC 25-21.5-3-4 IS AMENDED TO READ AS
 10 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. (a) **Except as**
 11 **provided in subsection (b)**, the secretary shall receive and account for
 12 all money collected under this article and deposit the money in the state
 13 general fund with the treasurer of state. All expenses incurred in the
 14 administration of this article shall be paid from the state general fund.

15 (b) **In addition to a registration fee determined under**
 16 **IC 25-21.5-7-5**, the board shall establish a fee of not more than
 17 **twenty dollars (\$20) for a registered land surveyor or a registered**
 18 **land surveyor in training to provide funds for the purpose of**
 19 **administering and enforcing the provision of this article, including**
 20 **investigating and taking action against persons violating this**
 21 **article. All funds collected under this subsection shall be deposited**
 22 **in the registered land surveyor and registered land surveyor in**
 23 **training investigative fund established by IC 25-21.5-11-4.**

24 SECTION 70. IC 25-21.5-7-5 IS AMENDED TO READ AS
 25 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. The board shall
 26 determine the amount of registration fees for a land surveyor and
 27 certification fees for a land-surveyor-in-training. **Except as provided**
 28 **under IC 25-21.5-8-7**, the registration and renewal fee for a land
 29 surveyor may be not more than fifty dollars (\$50) per year.

30 SECTION 71. IC 25-21.5-8-6 IS AMENDED TO READ AS
 31 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. **Except as provided**
 32 **in IC 25-21.5-3-4(b)**, the board shall determine the renewal fee and
 33 **delinquent fee establish fees under IC 25-1-8.**

34 SECTION 72. IC 25-21.5-8-7 IS AMENDED TO READ AS
 35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board may
 36 adopt rules requiring a land surveyor to obtain continuing education for
 37 renewal of a certificate under this chapter.

38 (b) If the board adopts rules under this section, the rules must do the
 39 following:

40 (1) **Establish a fee of two dollars (\$2) for each hour of continuing**
 41 **education required after the certificate of registration was issued**
 42 **or renewed.**

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1 ~~(2) Require that continuing education fees be paid when the land~~
 2 ~~surveyor's certificate of registration is renewed.~~

3 ~~(3) (1) Establish procedures for approving an organization that~~
 4 ~~provides continuing education.~~

5 ~~(4) (2) Require an organization that provides an approved~~
 6 ~~continuing education program to supply the following information~~
 7 ~~to the board not more than thirty (30) days after the course is~~
 8 ~~presented:~~

9 (A) An alphabetical list of all land surveyors who attended the
 10 course.

11 (B) A certified statement of the hours to be credited to each
 12 land surveyor.

13 (c) If the board adopts rules under this section, the board may adopt
 14 rules to do the following:

15 (1) Allow private organizations to implement the continuing
 16 education requirement.

17 (2) Establish an inactive certificate of registration. If the board
 18 adopts rules establishing an inactive certificate, the board must
 19 adopt rules that:

20 (A) do not require the holder of an inactive certificate to obtain
 21 continuing education;

22 (B) prohibit the holder of an inactive certificate from
 23 practicing land surveying;

24 (C) establish requirements for reactivation of an inactive
 25 certificate; and

26 (D) do not require the holder of an inactive certificate to pay
 27 the registration and renewal fees required under
 28 IC 25-21.5-7-5.

29 SECTION 73. IC 25-21.5-11-4 IS ADDED TO THE INDIANA
 30 CODE AS A **NEW** SECTION TO READ AS FOLLOWS
 31 [EFFECTIVE JULY 1, 2005]: **Sec. 4. (a) The registered land**
 32 **surveyor and registered land surveyor in training investigative**
 33 **fund is established to provide funds for administering and**
 34 **enforcing the provisions of this article, including investigating and**
 35 **taking enforcement action against violators of this article. The fund**
 36 **shall be administered by the attorney general and the licensing**
 37 **agency.**

38 (b) The expenses of administering the fund shall be paid from
 39 the money in the fund. The fund consists of money from a fee
 40 imposed upon registered land surveyors and registered land
 41 surveyors in training under IC 25-21.5-3-4(b).

42 (c) The treasurer of state shall invest the money in the fund not

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currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the Indiana professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provision of this article.

SECTION 74. IC 25-21.5-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The attorney general shall act as the legal advisor for the board and provide any legal assistance necessary to carry out this article.

(b) The attorney general and the licensing agency may use the registered land surveyor and registered land surveyor in training investigative fund established under IC 25-21.5-11-4 to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article.

SECTION 75. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 21.8. MASSAGE THERAPISTS

Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who practices or offers to practice massage therapy.

(b) This article does not apply to the following:

(1) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) engages in the practice for which the person holds a license, certification, or registration under Indiana law, including a physician, a chiropractor, a podiatrist, or a physical therapist.

(2) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

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(B) is a qualified member of a professional group and performs massage in a manner consistent with the individual's training and code of ethics of the profession, including a chiropractor, an occupational therapist, a cosmetologist, or a nurse.

(3) A massage therapy student who performs massage or massage therapy in the course of the student's studies and who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) does not receive or request compensation for the massage or massage therapy.

(4) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) and whose services are not designated or implied to be massage or massage therapy;

(B) is engaged within the scope of practice of a profession with established standards and ethics; and

(C) uses:

(i) touch, words, and direct movements to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement; or

(ii) touch that is essential for effectual palpation of the human energy system.

(5) An individual who:

(A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

(B) treats soft tissue above the neck, below the elbow, or below the knee on a client who is not disrobed.

Chapter 2. Definitions

Sec. 1. Definitions in this chapter apply throughout this article.

Sec. 2. "Board" means the state board of massage therapy established by IC 25-21.8-3-1.

Sec. 3. "Licensing agency" means the Indiana professional licensing agency established under IC 25-1-6.

Sec. 4. "Massage", "massage therapy", or "bodywork":

(1) means the therapeutic application of massage techniques on the human body;

(2) includes:

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(A) the use of touch, pressure, percussion, kneading, movement, positioning, nonspecific stretching, stretching within the normal anatomical range of movement, and holding, with or without the use of massage devices that mimic or enhance manual measures; and

(B) the external application of heat, cold, water, ice, stones, thermal therapy, lubricants, abrasives, and topical preparations that are not classified as prescription drugs; and

(3) does not include:

(A) joint manipulation or spinal adjustment; and

(B) diagnosis or prescribing drugs for which a license is required.

Sec. 5. "Massage therapist" means an individual who practices massage or massage therapy.

Sec. 6. "NCCA" refers to the National Commission for Certifying Agencies.

Sec. 7. "Practice of massage", "practice of massage therapy", or "practice of bodywork" means:

(1) the performance of massage or massage therapy;

(2) professing to be a massage therapist; or

(3) implying in any manner to the public that an individual performs massage or massage therapy.

Sec. 8. "Professional massage and bodywork therapy association" means a state or nationally chartered organization that is devoted to the massage specialty and therapeutic approach and that meets the following requirements:

(1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene, sanitation, ethics, technical theory, and application of techniques.

(2) The organization has an established code of ethics and has procedures for the suspension and revocation of membership of persons violating the code of ethics.

Chapter 3. State Board of Massage Therapy

Sec. 1. The state board of massage therapy is established.

Sec. 2. The board consists of five (5) members appointed by the governor as follows:

(1) Three (3) massage therapists, each of whom:

(A) is licensed under this article; and

(B) has been actively practicing massage therapy for at

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1 least three (3) of the five (5) years immediately preceding
 2 the individual's appointment.
 3 The board members appointed under this subdivision may
 4 continue to practice massage or massage therapy while
 5 serving on the board.
 6 (2) Two (2) members of the general public. A board member
 7 appointed under this subdivision must not:
 8 (A) be licensed under this article;
 9 (B) be the spouse of an individual who is licensed or
 10 intends to be licensed under this article; or
 11 (C) have a direct or an indirect financial interest in the
 12 profession regulated under this article.
 13 Only one (1) of the two (2) members appointed under this
 14 subdivision may hold a license in another health care
 15 profession under this title.
 16 Sec. 3. Each member of the board shall serve a term of three (3)
 17 years and until the member's successor is appointed and qualified.
 18 Sec. 4. (a) A vacancy in the membership of the board shall be
 19 filled by an individual appointed by the governor for the unexpired
 20 term.
 21 (b) A member may not serve more than two (2) consecutive
 22 terms in addition to any unexpired term to which the individual
 23 was appointed.
 24 (c) A member of the board may be removed for cause by the
 25 governor.
 26 Sec. 5. (a) Each year the board shall elect from its members the
 27 following officers:
 28 (1) A chairperson.
 29 (2) A vice chairperson.
 30 (3) A secretary.
 31 (b) A member serving as chairperson, vice chairperson, or
 32 secretary shall serve until the member's successor as chairperson,
 33 vice chairperson, or secretary is elected.
 34 Sec. 6. The board shall meet at least two (2) times each calendar
 35 year upon the call of the chairperson or the written request of a
 36 majority of the members of the board.
 37 Sec. 7. (a) Three (3) members of the board constitute a quorum.
 38 (b) An affirmative vote of three (3) members of the board is
 39 necessary for the board to take official action.
 40 Sec. 8. A member of the board is not entitled to a per diem
 41 allowance or any other compensation for the performance of the
 42 member's duties.

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Chapter 4. Powers and Duties of the Board

Sec. 1. (a) The board shall do the following:

- (1) Administer, coordinate, and enforce this article.
- (2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.
- (3) Judge the qualifications of applicants for licensing under this article.
- (4) Issue, deny, renew, suspend, or revoke licenses under this article.
- (5) Discipline licensees for violations of this article.
- (6) Establish reasonable fees for examination, license applications, renewal of licenses, and other services.
- (7) Maintain a record of all proceedings.
- (8) Establish a system for grievances to be addressed and resolved.
- (9) Maintain a list of licensed massage therapists.

(b) The board is authorized to do the following:

- (1) Rescind or modify a disciplinary action taken under IC 25-21.8-8.
- (2) Conduct investigations to determine whether violations of this article exist and constitute grounds for disciplinary action against licensees under this article.
- (3) Conduct administrative hearings.

Sec. 2. The licensing agency shall do the following:

- (1) Carry out the administrative functions of the board.
- (2) Provide necessary personnel to carry out the duties of this article.
- (3) Receive and account for all fees required under this article.
- (4) Deposit fees collected with the treasurer of state for deposit in the state general fund.

Sec. 3. Expenses incurred in the administration of this article must be paid from the state general fund.

Chapter 5. Issuance of License

Sec. 1. An individual may not practice or offer to practice massage therapy without a license issued by the board.

Sec. 2. An application for a massage therapist license must be:

- (1) made to the board on forms provided by the board; and
- (2) accompanied by an application fee in the amount set by the board.

Sec. 3. An individual who applies for a license as a massage therapist must do the following:

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(1) Furnish evidence satisfactory to the board showing that the individual:

(A) is at least eighteen (18) years of age;

(B) has a high school diploma or the equivalent of a high school diploma;

(C) has successfully completed a massage school or program that:

(i) requires at least five hundred (500) hours of supervised classroom instruction on massage therapy;

(ii) is in good standing with any state, regional, or national agency of government charged with regulating massage therapy schools or programs; and

(iii) is accredited by the Indiana commission on proprietary education established by IC 20-1-19-2 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and

(D) has taken and passed one (1) of the following:

(i) The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), if the exam is recognized or accredited by the NCCA.

(ii) An examination created or approved by the board.

(iii) An equivalent massage examination accredited by the NCCA.

(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(3) Verify the information submitted on the application form.

(4) Pay fees established by the board.

Sec. 4. An individual who is not licensed under this article may not:

(1) profess to be a massage therapist;

(2) practice massage or massage therapy; or

(3) use:

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(A) the title "Licensed Massage Therapist", "Massage Therapist", "Licensed Massage Practitioner", "Massage Practitioner", "Masseur", "Masseuse", "Myotherapist", or "Body Worker";

(B) the abbreviation "LMT", "MT", "LMP", or "MP"; or

(C) other words, initials, letters, abbreviations, or insignia indicating or implying that the individual is a massage therapist licensed under this article.

Chapter 6. Licensure by Endorsement

Sec. 1. (a) Subject to section 2 of this chapter, the board may grant a license by endorsement to an individual who:

(1) is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as the credentialing standards specified under this article;

(2) is in good standing with the standards of the other state or country;

(3) pays an application fee established by the board; and

(4) provides a history of the individual's criminal convictions, if any, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) Upon receipt of an application for a license by endorsement under this chapter, the board shall contact each jurisdiction that previously credentialed the applicant to determine the applicant's current status in each jurisdiction.

Sec. 2. The board shall issue a license to an applicant if:

(1) the applicant has been credentialed by another state within the five (5) years immediately preceding the submission of the application to the board under this chapter and the state has credentialing standards for massage therapists that are substantially equivalent to the credentialing standards that must be met under this article; or

(2) the applicant:

(A) holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork (NCETMB) or another agency that meets

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standards set by the NCCA; and
 (B) is a current member of a professional massage and
 bodywork therapy association;
 and the applicant meets other requirements established by the
 board.

Chapter 7. License Renewal

Sec. 1. A license issued by the board is valid for four (4) years.

Sec. 2. (a) An individual who applies to renew a license as a
 massage therapist must:

- (1) file a renewal application with the board;
- (2) pay a renewal fee established by the board; and
- (3) provide a history of any of the individual's criminal
 convictions, including any criminal convictions relating to the
 practice of the profession. A criminal conviction may not
 operate as a complete bar to the renewal of a license, unless:

(A) the conviction is for:

- (i) prostitution;
- (ii) rape; or
- (iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) An application for license renewal must include proof of
 current membership in a professional massage and bodywork
 therapy association.

Sec. 3. (a) A renewal application must be submitted to the board
 at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set
 forth in subsection (a), the board may charge the applicant a
 delinquent fee in an amount established by the board.

Chapter 8. Discipline and Violations

Sec. 1. (a) This section does not apply to the violation of a rule
 adopted by the board.

(b) A person who knowingly or intentionally violates
 IC 25-21.8-5-1 or IC 25-21.8-5-4(3) commits a Class C
 misdemeanor.

Sec. 2. (a) The board shall follow the disciplinary procedures
 established under IC 25-1-7, IC 25-1-9-4, and IC 25-1-9-9.

(b) The board shall adopt rules under IC 4-22-2 regarding the
 discipline of a licensee for a violation of this article.

Sec. 3. (a) A person who practices, offers to practice, or attempts
 to practice massage therapy, or who holds himself or herself out to
 the public as a person able to practice massage therapy or as a
 massage therapist without being licensed under this article, in

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addition to any other penalty provided by law, shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

(b) A civil penalty imposed under this section shall be paid not later than sixty (60) days after the effective date of the order imposing the civil penalty. The order:

(1) constitutes a judgment; and

(2) may be filed and executed in the same manner as any judgment from any court of record.

Sec. 4. A person who knowingly:

(1) aids and abets another person in using a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) when the other person is not authorized under this article to use the title, abbreviation, or other designation; or

(2) employs another person who uses but is not authorized to use the regulated professional title under this article in the course of the other person's employment;

shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

Chapter 9. Preemption of Local Ordinances, Resolutions, Rules, and Policies

Sec. 1. Except as provided in section 2 of this chapter, this article supersedes any ordinances, resolutions, rules, and policies relating to the licensing, certification, or registration of massage therapists that are adopted by a municipality or county and that otherwise have the force and effect of law.

Sec. 2. This article does not affect local ordinances, resolutions, rules, and policies adopted by a municipality or county that have the force and effect of law and that relate to:

(1) zoning requirements; or

(2) occupational license fees.

SECTION 76. IC 25-23.7-6-5 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 5. (a) The board shall adopt rules concerning the continuing education required for the renewal of a license under this chapter.

(b) The rules must do the following:

(1) Establish procedures for approving organizations that provide continuing education.

(2) Establish a fee for each hour of continuing education required

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1 after a license is issued or renewed.

2 (3) (2) Prescribe the content, duration, and organization of
3 continuing education courses that contribute to the general
4 competence of installers.

5 SECTION 77. IC 25-28.5-1-12 IS AMENDED TO READ AS
6 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as
7 otherwise provided in this chapter, ~~any~~ a natural person over the age of
8 eighteen (18) years who resides in Indiana and any corporation which
9 satisfies the further requirements of this chapter may be licensed by the
10 commission as a plumbing contractor. Except as otherwise provided by
11 this chapter, ~~any~~ a natural person over the age of eighteen (18) years
12 may be licensed by the commission as journeyman plumber.

13 (b) ~~Any~~ A person who desires to be licensed as a plumbing
14 contractor or journeyman plumber is eligible for such a license upon
15 the successful taking of the examination provided in section 15 of this
16 chapter.

17 (c) To qualify for a journeyman plumber examination under
18 subsection (b), an applicant who is an Indiana resident must provide
19 evidence that the applicant has completed at least four (4) years in an
20 apprenticeship program approved by the commission or present to the
21 commission a notarized statement providing evidence that the applicant
22 has at least four (4) years of experience in the plumbing trade **in**
23 **employment as set forth in IC 25-28.5-1-32(2), IC 25-28.5-1-32(6),**
24 **or IC 25-28.5-1-32(7).** To qualify for a plumbing contractor license
25 examination under subsection (b), an applicant who is an Indiana
26 resident must provide evidence that the applicant has completed at
27 least four (4) years in an apprenticeship program approved by the
28 commission or present to the commission a notarized statement
29 providing evidence that the applicant has at least four (4) years of
30 experience in the plumbing trade **in employment as set forth in**
31 **IC 25-28.5-1-32(2), IC 25-28.5-1-32(6), or IC 25-28.5-1-32(7),** or has
32 worked in a plumbing business under the direction of a licensed
33 plumbing contractor for at least four (4) years.

34 (d) An applicant who is not an Indiana resident may qualify to take
35 an examination under subsection (b) in the following manner:

36 (1) If the applicant holds a license in a state that does not have a
37 reciprocity agreement with Indiana, the applicant must present the
38 license to the commission to be eligible to take the examination.

39 (2) If the applicant resides in a state that does not have licensing
40 requirements, the applicant before taking the examination must
41 meet the appropriate requirements of subsection (b).

42 (e) If the applicant holds a license in a state that has a reciprocity

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1 agreement with Indiana, the appropriate license shall be issued
2 automatically.

3 SECTION 78. IC 25-28.5-1-22 IS AMENDED TO READ AS
4 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 22. (a) Every license or
5 certificate of registration issued under ~~the provisions of~~ this chapter
6 ~~shall expire two (2) years subsequent to the date of its issuance expires~~
7 **on a date established by the licensing agency under IC 25-1-6-4** and
8 shall be renewed biennially thereafter upon payment of the required
9 renewal fees.

10 (b) Applications for renewal shall be filed with the commission ~~on~~
11 ~~a in the form and manner provided therefore; no later than thirty (30)~~
12 ~~days prior to the expiration date of the licensee's or registrant's current~~
13 ~~license or certificate of registration by the commission.~~ The
14 application shall be accompanied by the required renewal fee. The
15 commission, upon the receipt of the application for renewal and the
16 required renewal fee, shall issue to the renewal applicant a license or
17 certificate of registration in the category said applicant has previously
18 held. **Unless a license is renewed, a license issued by the commission**
19 **expires on the date specified by the licensing agency under**
20 **IC 25-1-6-4.**

21 SECTION 79. IC 25-28.5-1-23 IS AMENDED TO READ AS
22 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 23. The fees to be
23 charged by and paid to the commission by licensees for all licenses and
24 license renewals ~~thereof~~ shall be established by the commission under
25 ~~IC 25-1-8-2.~~ **IC 25-1-8.**

26 SECTION 80. IC 25-28.5-1-24 IS AMENDED TO READ AS
27 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 24. (a) All fees
28 collected by the commission shall be deposited with the treasurer of
29 state to be deposited by ~~him~~ **the treasurer** in the ~~state~~ general fund. ~~of~~
30 ~~the state.~~

31 (b) All expenses of the commission shall be paid from the general
32 fund upon appropriation being made therefor in the manner provided
33 by law for the making of such appropriations.

34 SECTION 81. IC 25-28.5-2-2.1 IS AMENDED TO READ AS
35 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. (a) At the time of
36 initial licensure under this article, each licensee shall pay the ~~following~~
37 **fee fees established by the commission under IC 25-1-8-2 for the**
38 **following:**

- 39 (1) ~~Seventy-five dollars (\$75)~~ for A plumbing contractor.
- 40 (2) ~~Thirty dollars (\$30)~~ for A journeyman plumber.

41 (b) Fees collected under subsection (a) shall be placed in the
42 plumbers recovery fund.

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(c) The fee assessed under this section is in addition to any other fee under this article.

SECTION 82. IC 25-30-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) An application for license as a private detective must be on a form prescribed by the board accompanied by the license fee ~~as provided by this chapter:~~ **established by the board under IC 25-1-8.**

(b) The application shall be verified and shall include the following:

(1) The full name and business address of the applicant.

(2) The name under which the applicant intends to do business as a private detective.

(3) If the applicant is a person other than an individual, the full name and residence address of each of its members, partners, officers, and directors, and its managers.

(4) Other information, evidence, statements, or documents required by the board.

SECTION 83. IC 25-30-1-16 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 16. (a) **Unless a license is renewed**, a license and the identification cards of the licensee's employees issued under this chapter expire ~~two (2) years from the date of issuance of the license: on a date specified by the licensing agency under IC 25-1-6-4 and expire biennially after the initial expiration date. An applicant for renewal shall pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.~~

(b) If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without any action taken by the board.

~~(b)~~ (c) A licensee desiring a renewal license must:

(1) file an application for renewal at least thirty (30) days before the expiration of the licensee's license on a form as prescribed by the board; and

(2) meet the license renewal requirements determined by the board.

~~(c)~~ (d) A license may be reinstated within thirty (30) days after the expiration of the license if the applicant does the following:

(1) Files an application for renewal with the board.

(2) Meets the license requirements determined by the board.

(3) Pays ~~the license and delinquent fees: a fee established under IC 25-1-8-7.~~

~~(d)~~ (e) Employee identification cards issued under this chapter expire at the same time as the license referred to in subsection (a).

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SECTION 84. IC 25-30-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) The board shall charge and the licensing agency shall collect the following private detective license fees **established by the board under IC 25-1-8.**

(1) For issuance or renewal of a private detective license; a fee of one hundred fifty dollars (\$150);

(2) For identification cards for unlicensed employees issued under section 10(d) of this chapter; a fee of:

(A) ten dollars (\$10); or

(B) five dollars (\$5) if application for the identification card is made in the second year of the licensee's license.

(3) For reinstatement of a license referred to in section 16(c) of this chapter; a delinquent fee of seventy-five dollars (\$75).

(b) All fees collected under this chapter shall go into the general fund and shall be accounted for by the licensing agency.

(c) A license fee shall not be refunded unless a showing is made of ineligibility to receive the license by failure to meet the requirements of this chapter, or by a showing of mistake, inadvertence, or error in the collection of the fee.

SECTION 85. IC 25-31-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board shall enforce and administer the provisions of this chapter, and adopt rules, not inconsistent with the Constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt rules establishing standards for the competent practice of engineering **and for the administration of the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter.** Any rulemaking by the board shall be in accordance with IC 4-22-2.

(b) The board shall adopt and have an official seal.

SECTION 86. IC 25-31-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **(a) Except as provided in subsection (b),** the licensing agency shall receive and account for all money collected under the provisions of this chapter and shall deposit the money with the treasurer of state to be deposited by the treasurer of state in the general fund of the state.

(b) In addition to the registration fee established under section 13(c) of this chapter, the board shall establish a fee of not more than twenty dollars (\$20) for registered professional engineers or registered engineering interns to provide funds for the purpose of administering and enforcing the provisions of this article, including

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investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter.

SECTION 87. IC 25-31-1-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The examination required of all applicants for registration as a professional engineer shall be a written examination which shall be divided into the following two (2) parts, each of eight (8) hours duration:

(1) Engineering fundamentals.

(2) Principles and practice of engineering.

The board may adopt rules under IC 4-22-2 establishing additional examination requirements.

(b) The engineering fundamentals portion of the examination shall be designed to test the applicant's knowledge of mathematics and the physical and engineering sciences. The standards of proficiency required shall approximate that attained by graduation in an approved four (4) year engineering curriculum.

(c) The principles and practice of ~~the~~ engineering portion of the examination shall be designed primarily to test the applicant's understanding of, and judgment and ability to apply correctly, the principles of:

(1) mathematics;

(2) the physical sciences;

(3) the engineering sciences; and

(4) engineering design analysis and synthesis;

to the practice of professional engineering. A part of the examination may be designed to test the applicant's knowledge and understanding of the ethical, economic, and legal principles relating to the practices of professional engineering.

(d) An applicant for registration as a professional engineer who holds an engineering intern certificate issued in Indiana or in any other state or territory having equivalent standards may be exempted from the engineering fundamentals portion of the examination.

(e) An applicant must successfully pass the engineering fundamentals portion of the examination before taking the principles and practice portion of the examination.

(f) Examinations shall be held at times and places as determined by the board at least two (2) times each year. Examinations for certification as an engineering intern may be held separately from the examinations for registration as a professional engineer.

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(g) An applicant for registration as a professional engineer who is presently registered in another state or territory may be assigned a written examination as the board deems necessary to meet the requirements of this chapter.

(h) An applicant for registration as a professional engineer who fails in the first examination may request to be readmitted for a second examination at either of the next two (2) regularly scheduled examinations. Upon application and at the discretion of the board, an applicant who misses:

(1) the originally scheduled examination; or

(2) the next two (2) regularly scheduled examinations;

may be given permission to appear for another regularly scheduled examination. The amount of fee to be paid for each examination shall be determined by the board under IC 25-1-8-2.

(i) If an applicant who has failed ~~two (2)~~ **three (3)** or more examinations reapplies and submits evidence of acquiring additional knowledge for the examination, the board may give the applicant approval to take subsequent examinations.

SECTION 88. IC 25-31-1-15 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 15. (a) The board shall issue a certificate of registration, upon the payment of the fee prescribed ~~in this chapter;~~ **by the board under IC 25-1-8-2**, to any applicant who, in the opinion of the board, has satisfactorily met all requirements of this chapter. In the case of a professional engineer, the certificate shall authorize the practice of "professional engineering". The certificate of registration shall:

(1) show the full name of the registrant;

(2) bear a serial number and date; and

(3) be signed by ~~each member under the seal~~ **a designee** of the board.

The issuance of any certificate of registration by the board under this chapter is evidence that the individual named on the certificate is entitled to all the rights and privileges of a registered professional engineer from the date on the certificate until it expires or is revoked.

(b) The board shall issue a certificate of enrollment upon the payment of the certificate fee prescribed ~~in this chapter~~ **by the board under IC 25-1-8-2** to any applicant who, in the opinion of the board, has satisfactorily met all of the requirements of this chapter. In the case of an engineering intern, the certificate shall state that the applicant has successfully passed the examination in engineering fundamentals and has been enrolled as an engineering intern. The certificate of enrollment shall:

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- (1) show the full name of the enrollee;
- (2) bear a serial number and date; and
- (3) be signed by the director of the licensing agency.

The issuance of a certificate of enrollment by the board is evidence that the individual named on the certificate is entitled to all the rights and privileges of an engineering intern while the certificate remains unrevoked or until it expires.

SECTION 89. IC 25-31-1-17 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 17. (a) The biennial period for which renewals are to be made shall extend from the first day of August of an even-numbered year to the last day of July of the next even-numbered year:

(b) A new registrant whose certificate bears a date during the first twelve (12) months of a biennial renewal period is required to pay one-half (1/2) of the biennial renewal fee in addition to and at the time of the payment of the certificate fee to validate the certificate for the last twelve (12) months of the biennial renewal period:

(c) All certificates of registration expire on the last day of July in each even-numbered year and are invalid from that date, unless renewed. The secretary of the board shall send a renewal bill notice by mail to every person registered and in good standing and to those holding invalid certificates who are delinquent not more than two (2) years. The notice must comply with the provisions of IC 25-1-2-6(c) and include the amount of the renewal fee and delinquent fee, if any, to validate the certificate for the succeeding biennial period. The renewal fee and delinquent fee shall be determined by the board under IC 25-1-8-2:

(a) Unless a certificate is renewed, a certificate issued under this chapter expires on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency.

(b) If the holder of a certificate does not renew the license by the date specified by the licensing agency, the certificate expires and becomes invalid without the board taking any action.

~~(d)~~ (c) The failure on the part of a registrant to renew a certificate does not deprive the registrant of the right of renewal until the registrant's certificate has remained invalid during two (2) biennial renewal periods if the registrant pays the appropriate delinquent and renewal fees. After two (2) successive biennial renewal periods have

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1 elapsed renewal shall be denied.

2 SECTION 90. IC 25-31-1-21 IS AMENDED TO READ AS
3 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 21. The board may,
4 upon application and payment of a fee established by the board in the
5 board's rules, issue a certificate of registration as a professional
6 engineer to an individual who holds a valid certificate of registration
7 as a professional engineer, issued to the applicant by the proper
8 authority of any state or territory or possession of the United States if
9 the requirements for registration of professional engineers that the
10 certificate of registration was issued under do not conflict with the
11 provisions of this chapter. In determining the qualifications of an
12 applicant, the board may accept the verified professional record of the
13 applicant that is certified by the National Council of Examiners for
14 Engineers and Surveyors. **However, an applicant meets the**
15 **experience requirement under section 12 of this chapter if the**
16 **applicant:**

- 17 (1) **has at least three (3) years of engineering work experience**
18 **after the applicant graduates from an approved engineering**
19 **curriculum but before the applicant successfully passes an**
20 **examination required under section 14 of this chapter; and**
21 (2) **has been registered or licensed as a professional engineer**
22 **in another state for at least ten (10) years.**

23 SECTION 91. IC 25-31-1-28 IS AMENDED TO READ AS
24 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) It is the duty of
25 all law enforcement officers of this state, or any political subdivision,
26 to enforce the provisions of this chapter and to apprehend and
27 prosecute any person who violates any of the provisions of this chapter.

28 (b) The attorney general shall act as the legal advisor of the board
29 and render any legal assistance as may be necessary in carrying out the
30 provisions of this chapter.

31 (c) **The attorney general and the licensing agency may use the**
32 **registered professional engineers and registered engineering**
33 **interns investigative fund established by section 35 of this chapter**
34 **to hire investigators and other employees to enforce the provision**
35 **of this article and to investigate and prosecute violations of this**
36 **article.**

37 SECTION 92. IC 25-31-1-35 IS ADDED TO THE INDIANA
38 CODE AS A NEW SECTION TO READ AS FOLLOWS
39 [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) **The registered**
40 **professional engineers and registered engineering interns**
41 **investigative fund is established to provide funds for administering**
42 **and enforcing the provisions of this article, including investigating**

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1 and taking enforcement action against violators of this article. The
 2 fund shall be administered by the attorney general and the
 3 licensing agency.

4 (b) The expenses of administering the fund shall be paid from
 5 the money in the fund. The fund consists of money from a fee
 6 imposed upon registered professional engineers and registered
 7 engineering interns under section 9(b) of this chapter.

8 (c) The treasurer of state shall invest the money in the fund not
 9 currently needed to meet the obligations of the fund in the same
 10 manner as other public money may be invested.

11 (d) Money in the fund at the end of a state fiscal year does not
 12 revert to the state general fund. If the total amount in the fund
 13 exceeds five hundred thousand dollars (\$500,000) at the end of a
 14 state fiscal year after payment of all claims and expenses, the
 15 amount that exceeds five hundred thousand dollars (\$500,000)
 16 reverts to the state general fund.

17 (e) Money in the fund is continually appropriated for use by the
 18 attorney general and the professional licensing agency to
 19 administer and enforce the provisions of this article and to conduct
 20 investigations and take enforcement action against persons
 21 violating the provisions of this article.

22 SECTION 93. IC 25-34.1-3-3.1 IS AMENDED TO READ AS
 23 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3.1. (a) To obtain a
 24 salesperson license, an individual must:

25 (1) be at least eighteen (18) years of age before applying for a
 26 license and must not have a conviction for:

27 (A) an act that would constitute a ground for disciplinary
 28 sanction under IC 25-1-11;

29 (B) a crime that has a direct bearing on the individual's ability
 30 to practice competently; or

31 (C) a crime that indicates the individual has the propensity to
 32 endanger the public;

33 (2) have successfully completed courses in the principles,
 34 practices, and law of real estate, totaling eight (8) semester credit
 35 hours, or their equivalent, as a student at an accredited college or
 36 university or have successfully completed an approved
 37 salesperson course as provided in IC 25-34.1-5-5(a);

38 (3) apply for a license by submitting the application fee
 39 prescribed by the commission and an application containing the
 40 name, address, and age of the applicant, the name under which
 41 the applicant intends to conduct business, the principal broker's
 42 address where the business is to be conducted, proof of

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1 compliance with subdivision (2), and any other information the
2 commission requires;

3 (4) pass a written examination prepared and administered by the
4 commission or its duly appointed agent; and

5 (5) submit not more than one hundred twenty (120) days after
6 passing the written examination under subdivision (4):

7 (A) the license fee of ~~twenty-five dollars (\$25)~~; **established by**
8 **the commission under IC 25-1-8-2**; and

9 (B) a sworn certification of a principal broker that the
10 principal broker intends to associate with the applicant and
11 maintain that association until notice of termination of the
12 association is given to the commission.

13 (b) Upon the applicant's compliance with the requirements of
14 subsection (a), the commission shall:

15 (1) issue a wall certificate in the name of the salesperson to the
16 principal broker who certified the applicant's association with the
17 principal broker; and

18 (2) issue to the salesperson a pocket identification card which
19 certifies that the salesperson is licensed and indicates the
20 expiration date of the license and the name of the principal
21 broker.

22 (c) Notice of passing the commission examination serves as a
23 temporary permit to act as a salesperson as soon as the applicant sends,
24 by registered or certified mail with return receipt requested, the license
25 fee and certification as prescribed in subsection (a)(5)(A) and
26 (a)(5)(B). The temporary permit expires the earliest of the following:

27 (1) The date the license is issued.

28 (2) The date the applicant's association with the certifying
29 principal broker is terminated.

30 The temporary permit may not be renewed, extended, reissued, or
31 otherwise effective for any association other than with the initial
32 certifying principal broker.

33 (d) A salesperson shall:

34 (1) act under the auspices of the principal broker responsible for
35 that salesperson's conduct under this article;

36 (2) be associated with only one (1) principal broker;

37 (3) maintain evidence of licensure in the office, branch office, or
38 sales outlet of the principal broker;

39 (4) advertise only in the name of the principal broker, with the
40 principal broker's name in letters of advertising larger than that of
41 the salesperson's name; and

42 (5) not maintain any real estate office apart from that office

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provided by the principal broker.

(e) Upon termination of a salesperson's association with a principal broker, the salesperson's license shall be returned to the commission within five (5) business days. The commission shall reissue the license to any principal broker whose certification, as prescribed in subsection (a)(5)(B), is filed with the commission, and the commission shall issue a new identification card to the salesperson reflecting that change.

(f) **Unless a license is renewed**, a salesperson license expires at midnight, December 31, of the next odd-numbered year following the year in which the license is issued or last renewed; unless the licensee renews the license prior to expiration by payment of a biennial license fee of twenty-five dollars (\$25). An expired license may be reinstated within one hundred twenty (120) days after expiration, by payment of all unpaid license fees together with twenty dollars (\$20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars (\$100) plus any unpaid license fees: **on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee established by the board under IC 25-1-8-2 on or before the renewal date specified by the licensing agency. If the holder of a license does not renew the license by the date specified by the licensing agency, the license expires and becomes invalid without the board taking any action.** If a salesperson fails to reinstate a license within eighteen (18) months after expiration, a license may not be issued unless that salesperson again complies with the requirements of subsection (a)(3), (a)(4), and (a)(5).

(g) A salesperson license may be issued to an individual who is not yet associated with a principal broker but who otherwise meets the requirements of subsection (a). A license issued under this subsection shall be held by the commission in an unassigned status until the date the individual submits the certification of a principal broker required by subsection (a)(5). If the individual does not submit the application for licensure within one hundred twenty (120) days after passing the commission examination, the commission shall void the application and may not issue a license to that applicant unless the applicant again complies with the requirements of subsection (a)(4) through (a)(5).

(h) If an individual holding a salesperson license is not associated with a principal broker for two (2) successive renewal periods, the commission shall notify the individual in writing that the individual's license will become void if the individual does not associate with a

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principal broker within thirty (30) days from the date the notification is mailed. A void license may not be renewed.

SECTION 94. IC 25-34.1-3-4.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4.1. (a) To obtain a broker license, an individual must:

(1) be at least eighteen (18) years of age before applying for a license and must not have a conviction for:

(A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11;

(B) a crime that has a direct bearing on the individual's ability to practice competently; or

(C) a crime that indicates the individual has the propensity to endanger the public;

(2) have satisfied section 3.1(a)(2) of this chapter and have had continuous active experience for one (1) year immediately preceding the application as a licensed salesperson in Indiana. However, this one (1) year experience requirement may be waived by the commission upon a finding of equivalent experience;

(3) have successfully completed an approved broker course of study as prescribed in IC 25-34.1-5-5(b);

(4) apply for a license by submitting the application fee prescribed by the commission and an application specifying the name, address, and age of the applicant, the name under which the applicant intends to conduct business, the address where the business is to be conducted, proof of compliance with subdivisions (2) and (3), and any other information the commission requires;

(5) pass a written examination prepared and administered by the commission or its duly appointed agent; and

(6) within one hundred twenty (120) days after passing the commission examination, submit the license fee ~~of fifty dollars (\$50)~~ **established by the commission under IC 25-1-8-2**. If an individual applicant fails to file a timely license fee, the commission shall void the application and may not issue a license to that applicant unless that applicant again complies with the requirements of subdivisions (4) and (5) and this subdivision.

(b) To obtain a broker license, a partnership must:

(1) have as partners only individuals who are licensed brokers;

(2) have at least one (1) partner who:

(A) is a resident of Indiana; or

(B) is a principal broker under IC 25-34.1-4-3(b);

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- 1 (3) cause each employee of the partnership who acts as a broker
 2 or salesperson to be licensed; and
 3 (4) submit the license fee ~~of fifty dollars (\$50)~~ **established by the**
 4 **commission under IC 25-1-8-2** and an application setting forth
 5 the name and residence address of each partner and the
 6 information prescribed in subsection (a)(4).
 7 (c) To obtain a broker license, a corporation must:
 8 (1) have a licensed broker:
 9 (A) residing in Indiana who is either an officer of the
 10 corporation or, if no officer resides in Indiana, the highest
 11 ranking corporate employee in Indiana with authority to bind
 12 the corporation in real estate transactions; or
 13 (B) who is a principal broker under IC 25-34.1-4-3(b);
 14 (2) cause each employee of the corporation who acts as a broker
 15 or salesperson to be licensed; and
 16 (3) submit the license fee ~~of fifty dollars (\$50)~~ **established by**
 17 **the commission under IC 25-1-8-2**, an application setting forth
 18 the name and residence address of each officer and the
 19 information prescribed in subsection (a)(4), a copy of the
 20 certificate of incorporation, and a certificate of good standing of
 21 the corporation issued by the secretary of state. ~~of Indiana.~~
 22 (d) To obtain a broker license, a limited liability company must:
 23 (1) if a member-managed limited liability company:
 24 (A) have as members only individuals who are licensed
 25 brokers; and
 26 (B) have at least one (1) member who is:
 27 (i) a resident of Indiana; or
 28 (ii) a principal broker under IC 25-34.1-4-3(b);
 29 (2) if a manager-managed limited liability company, have a
 30 licensed broker:
 31 (A) residing in Indiana who is either a manager of the
 32 company or, if no manager resides in Indiana, the highest
 33 ranking company officer or employee in Indiana with authority
 34 to bind the company in real estate transactions; or
 35 (B) who is a principal broker under IC 25-34.1-4-3(b);
 36 (3) cause each employee of the limited liability company who acts
 37 as a broker or salesperson to be licensed; and
 38 (4) submit the license fee ~~of fifty dollars (\$50)~~ **established by the**
 39 **commission under IC 25-1-8-2** and an application setting forth
 40 the information prescribed in subsection (a)(4), together with:
 41 (A) if a member-managed company, the name and residence
 42 address of each member; or

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(B) if a manager-managed company, the name and residence address of each manager, or of each officer if the company has officers.

(e) Licenses granted to partnerships, corporations, and limited liability companies are issued, expire, are renewed, and are effective on the same terms as licenses granted to individual brokers, except as provided in subsection (h), and except that expiration or revocation of the license of:

(1) any partner in a partnership or all individuals in a corporation satisfying subsection (c)(1); or

(2) a member in a member-managed limited liability company or all individuals in a manager-managed limited liability company satisfying subsection (d)(2);

terminates the license of that partnership, corporation, or limited liability company.

(f) Upon the applicant's compliance with the requirements of subsection (a), (b), or (c), the commission shall issue the applicant a broker license and an identification card which certifies the issuance of the license and indicates the expiration date of the license. The license shall be displayed at the broker's place of business.

(g) Notice of passing the commission examination serves as a temporary permit for an individual applicant to act as a broker as soon as the applicant sends, by registered or certified mail with return receipt requested, a timely license fee as prescribed in subsection (a)(6). The temporary permit expires the earlier of one hundred twenty (120) days after the date of the notice of passing the examination or the date a license is issued.

(h) **Unless the license is renewed, a broker license expires, for individuals, at midnight, December 31 and, for corporations, partnerships, and limited liability companies at midnight, June 30 of the next even-numbered year following the year in which the license is issued or last renewed, unless the licensee renews the license prior to expiration by payment of a biennial license fee of fifty dollars (\$50). An expired license may be reinstated within one hundred twenty (120) days after expiration by payment of all unpaid license fees together with twenty dollars (\$20). If the license is renewed within eighteen (18) months, but more than one hundred twenty (120) days, after expiration, the licensee must pay a late fee of one hundred dollars (\$100) plus any unpaid license fees on a date specified by the licensing agency under IC 25-1-6-4 and expires biennially after the initial expiration date. An applicant for renewal shall submit an application in the manner prescribed by the board and pay the renewal fee**

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1 established by the commission under IC 25-1-8-2 on or before the
 2 renewal date specified by the licensing agency. If the holder of a
 3 license does not renew the license by the date specified by the
 4 licensing agency, the license expires and becomes invalid without
 5 the board taking any action. If a broker fails to reinstate a license
 6 within eighteen (18) months after expiration, a license may not be
 7 issued unless the broker again complies with the requirements of
 8 subsection (a)(4), (a)(5), and (a)(6).

9 (i) A partnership, corporation, or limited liability company may not
 10 be a broker-salesperson except as authorized in IC 23-1.5. An
 11 individual broker who associates as a broker-salesperson with a
 12 principal broker shall immediately notify the commission of the name
 13 and business address of the principal broker and of any changes of
 14 principal broker that may occur. The commission shall then change the
 15 address of the broker-salesperson on its records to that of the principal
 16 broker.

17 SECTION 95. IC 27-16 IS ADDED TO THE INDIANA CODE AS
 18 A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1,
 19 2005]:

20 **ARTICLE 16. PROFESSIONAL EMPLOYER**
 21 **ORGANIZATIONS**

22 **Chapter 1. Applicability**

23 **Sec. 1. This article applies after December 31, 2005.**

24 **Chapter 2. Definitions**

25 **Sec. 1. The definitions in this chapter apply throughout this**
 26 **article.**

27 **Sec. 2. (a) "Administrative fee" means the fee charged to a**
 28 **client by a professional employer organization for professional**
 29 **employer services.**

30 **(b) The term does not include any amount charged to a client by**
 31 **a professional employer organization for wages and salaries,**
 32 **benefits, worker's compensation, payroll taxes, withholding, or**
 33 **other assessments paid by a professional employer organization to**
 34 **or on behalf of a covered employee.**

35 **Sec. 3. "Client" means a person that enters into a professional**
 36 **employer agreement with a professional employer organization.**

37 **Sec. 4. "Co-employed" means that an individual is**
 38 **contemporaneously employed by both a client and a professional**
 39 **employer organization.**

40 **Sec. 5. "Co-employer" refers to a client or a professional**
 41 **employer organization that has entered into a professional**
 42 **employer agreement and has a relationship with a co-employed**

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individual.

Sec. 6. "Co-employment relationship" means a relationship:

(1) between a:

(A) client and a professional employer organization; or

(B) co-employer and a covered employee; and

(2) that results from the client and the professional employer organization entering into a professional employer agreement.

Sec. 7. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 8. (a) "Covered employee" means an individual who is co-employed.

(b) The term includes an individual who is an officer, a director, a shareholder, a partner, or a manager of a client to the extent the professional employer organization and the client expressly agree that the individual:

(1) is described in subsection (a); and

(2) acts as an operational manager or performs day to day operational services for the client;

as reflected in the professional employer agreement.

Sec. 9. "Department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 10. "PEO group" means two (2) or more professional employer organizations that are majority owned or commonly controlled by the same entity, parent, or controlling person.

Sec. 11. "Person" means an individual, a partnership, a corporation, a limited liability company, an association, or another legally recognized entity.

Sec. 12. "Professional employer agreement" means a written contract between a person and a professional employer organization:

(1) under which all or a majority of the person's employees become covered employees;

(2) that provides for the allocation of employer rights and obligations between the person and the professional employer organization with respect to the covered employees; and

(3) that specifies the professional employer services that will be provided.

Sec. 13. (a) "Professional employer organization" or "PEO" means a person engaged in the business of providing professional employer services.

(b) The term does not include the following:

(1) An arrangement through which a person:

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(A) whose principal business activity is an activity other than entering into professional employer agreements; and
 (B) that does not hold the person out as a professional employer organization;
 shares employees with a commonly owned company within the meaning of Section 414(b) and 414(c) of the Internal Revenue Code of 1986, as amended.

(2) An independent contractor arrangement through which a person:

(A) assumes responsibility for a product produced or a service performed by the person or the person's agent; and
 (B) retains and exercises primary direction and control over the work performed by an individual whose services are supplied under the independent contractor arrangement.

(3) The provision of temporary help services.

Sec. 14. "Professional employer services" means the services that are provided to a client by a professional employer organization under a professional employer agreement.

Sec. 15. "Temporary help service" means a service consisting of a person that:

(1) recruits and hires the person's own employees, not including an officer, a manager, or a controlling person of a client to which the person's own employee is assigned by the person;

(2) identifies organizations that need the services of employees described in subdivision (1);

(3) assigns employees described in subdivision (1) to:

(A) perform work or services for organizations described in subdivision (2);

(B) support or supplement the workforces of organizations described in subdivision (2); or

(C) provide assistance in special work situations, including employee absences, skill shortages, seasonal workloads, and special assignments or projects; and

(4) customarily attempts to reassign the employees described in subdivision (1) to other organizations when an assignment described in subdivision (3) is completed.

Chapter 3. Effect on Rights, Duties, and Obligations

Sec. 1. This article and a professional employer agreement do not affect, modify, or amend:

(1) a collective bargaining agreement; or

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(2) rights or obligations of a client, PEO, or covered employee under:

(A) the federal National Labor Relations Act (29 U.S.C. 151 et seq.);

(B) the federal Railway Labor Act (45 U.S.C. 151 et seq.); or

(C) IC 22-7.

Sec. 2. This article and a professional employer agreement do not do the following:

(1) Diminish, abolish, or remove the obligations of a client to a covered employee that exist before the effective date of the professional employer agreement.

(2) Affect, modify, or amend a contractual relationship or restrictive covenant:

(A) between a covered employee and a client that is in effect on the effective date of the professional employer agreement; or

(B) that is entered into between a client and a covered employee after the effective date of the professional employer agreement.

A PEO is not responsible or liable for a dispute in connection with or arising out of a contractual relationship or restrictive covenant described in this subdivision unless the PEO has otherwise specifically agreed in writing.

(3) Create a new or additional enforceable right of a covered employee against a PEO that is not specifically provided by the professional employer agreement or this article.

Sec. 3. (a) This article and a professional employer agreement do not affect, modify, or amend a federal, state, or local:

(1) license;

(2) registration; or

(3) certification;

requirement that applies to a client or covered employee.

(b) The following apply to a federal, state, or local requirement described in subsection (a):

(1) A covered employee who is required to be licensed, registered, or certified is considered solely an employee of the client for purposes of a license, registration, or certification requirement.

(2) A PEO is not considered to engage in an occupation, a trade, a profession, or another activity that is:

(A) subject to a license, registration, or certification

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1 requirement; or
 2 (B) otherwise regulated by a governmental entity;
 3 solely because the PEO has entered into and maintained a
 4 co-employment relationship with a covered employee who is
 5 subject to a requirement or regulation described in clause (A)
 6 or (B).
 7 (3) A client has the sole right of direction and control of the
 8 professional or licensed activities of a covered employee and
 9 of the client's business.
 10 (4) Only a:
 11 (A) covered employee; or
 12 (B) client;
 13 that is subject to a requirement or regulation described in
 14 subdivision (2)(A) or (2)(B) is subject to the regulation by a
 15 regulatory or governmental entity responsible for licensing,
 16 registration, certification, or other regulation of the covered
 17 employee or client.
 18 **Sec. 4. (a) For purposes of determination of tax credits and**
 19 **other economic incentives:**
 20 (1) provided by the state or another governmental entity; and
 21 (2) based on employment;
 22 a covered employee is considered an employee solely of the client.
 23 (b) A client is entitled to the benefit of any tax credit, economic
 24 incentive, or other benefit arising as the result of the employment
 25 of a covered employee of the client.
 26 (c) If the grant or amount of an incentive is based on the
 27 number of employees a client employs:
 28 (1) each client must be treated as employing only the covered
 29 employees actually working in the client's business
 30 operations; and
 31 (2) covered employees working for other clients of the PEO
 32 must not be counted.
 33 (d) A PEO shall provide, upon request by a client or an agency
 34 or a department of the state or of another governmental entity,
 35 employment information:
 36 (1) reasonably required by an agency or a department of the
 37 state or of another governmental entity that is responsible for
 38 administration of a tax credit or economic incentive described
 39 in this section; and
 40 (2) necessary;
 41 to support a request, a claim, an application, or another action by
 42 a client seeking a tax credit or an economic incentive.

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1 **Sec. 5. With respect to a bid, a contract, a purchase order, or an**
 2 **agreement entered into with the state or a political subdivision of**
 3 **the state, a client's status or certification as a:**

4 (1) small, minority owned, disadvantaged, or woman owned
 5 business enterprise; or

6 (2) historically underutilized business;

7 **is not affected because the client has entered into the professional**
 8 **employment agreement.**

9 **Chapter 4. Registration**

10 **Sec. 1. (a) A person shall not:**

11 (1) provide professional employer services;

12 (2) advertise that the person:

13 (A) is a professional employer organization; or

14 (B) provides professional employer services; or

15 (3) otherwise hold the person out as a professional employer
 16 organization;

17 **in Indiana unless the person is registered under this article.**

18 (b) The registration requirement specified in subsection (a)
 19 **applies to a person that performs any of the activities specified in**
 20 **subsection (a) regardless of the person's use of any of the following**
 21 **terms:**

22 (1) Professional employer organization.

23 (2) PEO.

24 (3) Staff leasing company.

25 (4) Registered staff leasing company.

26 (5) Employee leasing company.

27 (6) Administrative employer.

28 (7) Any other name.

29 **Sec. 2. An applicant for registration under this article shall file**
 30 **with the department the following information:**

31 (1) The name or names under which the applicant conducts
 32 business.

33 (2) The address of the principal place of business of the
 34 applicant and the address of each office the applicant
 35 maintains in Indiana.

36 (3) The applicant's taxpayer or employer identification
 37 number.

38 (4) A list by jurisdiction of each name under which the
 39 applicant has operated in the preceding five (5) years,
 40 including any alternative names, names of predecessors, and,
 41 if known, successor business entities.

42 (5) A statement of ownership that includes the name and

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evidence of the business experience of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interests of the applicant. (6) A statement of management that includes the name and evidence of the business experience of any individual who serves as president, chief executive officer, or otherwise has the authority to act as senior executive officer of the applicant.

(7) A financial statement:

(A) setting forth the financial condition of the applicant as of a date not earlier than one hundred eighty (180) days before the date the financial statement is submitted to the department;

(B) prepared in accordance with generally accepted accounting principles; and

(C) reviewed by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located.

Sec. 3. (a) A PEO that is operating in Indiana on January 1, 2006, shall complete the PEO's initial registration not later than July 1, 2006.

(b) An initial registration under subsection (a) is valid until the end of the PEO's first fiscal year end that occurs after December 31, 2006.

(c) A PEO that is not operating in Indiana on December 31, 2005, shall complete the PEO's initial registration before commencement of operations in Indiana.

Sec. 4. A PEO shall, not more than one hundred eighty (180) days after the end of the PEO's fiscal year, renew the PEO's registration by filing a statement notifying the department of any changes in the information provided in the PEO's most recent registration or renewal.

Sec. 5. A PEO group may satisfy the reporting and financial requirements of this chapter on a combined or consolidated basis if each member of the PEO group guarantees the obligations under this article of each other member of the PEO group.

Sec. 6. (a) A PEO that is not domiciled in Indiana is eligible for a limited registration under this article if the PEO:

(1) submits a properly executed request for limited registration on a form prescribed by the department;

(2) is licensed or registered as a professional employer

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organization in another state that has licensure or registration requirements that are:

(A) substantially the same as; or

(B) more restrictive than;

the requirements of this article;

(3) does not:

(A) maintain an office; or

(B) directly solicit clients located or domiciled; in Indiana; and

(4) does not have more than fifty (50) covered employees who are employed or domiciled in Indiana on any day.

(b) A limited registration is valid for one (1) year and may be renewed.

(c) A PEO that seeks limited registration under this section shall provide to the department information and documentation necessary to show that the PEO qualifies for a limited registration.

(d) IC 27-16-6-1(1) does not apply to a PEO that applies for limited registration under this section.

Sec. 7. The department shall adopt rules under IC 4-22-2 to provide for registration of a PEO without compliance with this chapter and IC 27-16-6 by the commissioner's acceptance of an affidavit or a certification:

(1) provided by a bonded, independent, and qualified assurance organization that has been approved by the commissioner; and

(2) that certifies the qualifications of a professional employer organization.

Sec. 8. The department shall maintain a list of PEOs that are registered under this article.

Sec. 9. The department may prescribe forms necessary to promote the efficient administration of this chapter.

Sec. 10. All records, reports, and other information obtained from a PEO under this chapter, except to the extent necessary for the proper administration of this chapter by the department, are confidential.

Chapter 5. Fees

Sec. 1. Upon filing an initial registration application under IC 27-16-4-2, a PEO shall pay an initial registration fee not to exceed five hundred dollars (\$500).

Sec. 2. Upon the filing of an annual renewal of a registration under IC 27-16-4-4, a PEO shall pay a renewal fee not to exceed two hundred fifty dollars (\$250).

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1 **Sec. 3. Upon initial application for limited registration under**
 2 **IC 27-16-4-6 and upon each annual renewal of the limited**
 3 **registration, a PEO shall pay a fee not to exceed two hundred fifty**
 4 **dollars (\$250).**

5 **Sec. 4. The department shall adopt rules under IC 4-22-2 to**
 6 **specify any fee to be charged for a PEO group registration.**

7 **Sec. 5. A PEO seeking registration under IC 27-16-4-7 shall pay**
 8 **an initial and annual fee not to exceed two hundred fifty dollars**
 9 **(\$250).**

10 **Sec. 6. (a) The department shall adopt rules under IC 4-22-2 to**
 11 **specify any other fee to be charged under this article.**

12 **(b) A fee:**

13 **(1) for which the amount is not specified in; and**

14 **(2) that is charged under;**

15 **this article must not exceed the amount reasonably necessary for**
 16 **the administration of this article.**

17 **Sec. 7. Fees collected under this chapter shall be deposited in the**
 18 **department of insurance fund established by IC 27-1-3-28.**

19 **Chapter 6. Financial Requirements**

20 **Sec. 1. (a) A PEO shall maintain either:**

21 **(1) subject to section 2 of this chapter, a minimum net worth**
 22 **of fifty thousand dollars (\$50,000); or**

23 **(2) subject to subsection (b), a bond with a market value of at**
 24 **least fifty thousand dollars (\$50,000).**

25 **(b) A bond described in subsection (a)(2) must be held by a**
 26 **depository designated by the department, securing payment by the**
 27 **PEO of all taxes, wages, benefits, or other entitlement due to or**
 28 **with respect to covered employees in the event that the PEO does**
 29 **not make the payments when due.**

30 **Sec. 2. A bond described in section 1(a)(2) of this chapter must**
 31 **not be included in the calculation of the minimum net worth**
 32 **described in section 1(a)(1) of this chapter.**

33 **Chapter 7. General Requirements and Provisions**

34 **Sec. 1. Except as provided in a professional employer**
 35 **agreement, the following apply to a co-employment relationship:**

36 **(1) The client:**

37 **(A) may exercise and enforce all rights; and**

38 **(B) is obligated to perform all duties and responsibilities;**
 39 **that otherwise apply to an employer in an employment**
 40 **relationship, that are allocated to the client by the**
 41 **professional employer agreement and this article, and that are**
 42 **not specifically allocated to the PEO by the professional**

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employer agreement and this article.

(2) The PEO:

(A) may exercise and enforce only the rights; and

(B) is obligated to perform only the duties and responsibilities;

that are required of the PEO or specifically allocated to the PEO by this article and the professional employer agreement.

(3) Unless otherwise expressly agreed by the PEO and the client in the professional employer agreement, the client retains the exclusive right to direct and control the covered employees as necessary to:

(A) conduct the client's business;

(B) discharge the client's fiduciary responsibilities; or

(C) comply with licensure requirements that apply to the client or the covered employees.

Sec. 2. (a) Except as provided in this article, the co-employment relationship between a client and a PEO, and between a co-employer and a covered employee, is governed by the professional employer agreement.

(b) A professional employer agreement must specify the following:

(1) The allocation of rights, duties, and responsibilities described in section 1 of this chapter.

(2) Except as provided in subsection (c), that the PEO is responsible for:

(A) payment of wages to covered employees;

(B) withholding, collection, reporting, and remittance of payroll related and unemployment taxes; and

(C) to the extent the PEO has assumed responsibility in the professional employer agreement, making payments for employee benefits for covered employees.

(3) The allocation, to either the client or the PEO, of the responsibility to obtain worker's compensation coverage for covered employees from a worker's compensation insurer that is authorized under this title to conduct the business of insurance in Indiana.

(4) If the professional employer agreement allocates the responsibility under subdivision (3) to the PEO, a requirement that the PEO maintain and provide to the client, at the client's request at the termination of the professional employer agreement, records regarding loss experience related to the worker's compensation insurance coverage.

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(c) A PEO is not responsible for an obligation between a client and a covered employee for payments in addition to the covered employee's salary, draw, or regular rate of pay, including bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off, unless the PEO has expressly agreed to assume liability for the payments in the professional employer agreement.

Sec. 3. A PEO shall provide written notice to each covered employee who is affected by a professional employer agreement entered into by the PEO concerning the general nature of the co-employment relationship between and among the PEO, the client, and the covered employee.

Sec. 4. (a) Except as expressly provided by the professional employer agreement:

(1) a client:

(A) is solely responsible for:

(i) the quality, adequacy, or safety of goods or services produced or sold in the client's business;

(ii) directing, supervising, training, and controlling the work of a covered employee with respect to the business activities of the client; and

(iii) the acts, errors, or omissions of a covered employee with respect to activities described in item (ii); and

(B) is not liable for the acts, errors, or omissions of:

(i) the PEO; or

(ii) a covered employee of the client and a PEO when the covered employee is acting under the express direction and control of the PEO.

(2) A PEO is not liable for the acts, errors, or omissions of a client or a covered employee of the client when the covered employee is acting under the express direction and control of the client.

(3) A covered employee is not, solely as the result of being a covered employee of a PEO, an employee of the PEO for purposes of:

(A) general liability insurance;

(B) fidelity bonds;

(C) surety bonds;

(D) employer's liability that is not covered by worker's compensation; or

(E) liquor liability insurance;

carried by the PEO unless the covered employee is specified

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as an employee of the PEO by specific reference in the professional employer agreement and any applicable prearranged employment contract, insurance contract, or bond.

(b) This section does not limit:

- (1) a contractual liability or obligation specified in a professional employer agreement; or
- (2) the liabilities and obligations of a PEO or client as specified in this article.

Sec. 5. A PEO that offers, markets, sells, administers, or provides professional employer services under a professional employer agreement as provided in this article is not:

- (1) engaged in the business of insurance; or
- (2) acting as an administrator (as defined in IC 27-1-25-1).

Sec. 6. (a) A business license fee or other fee that is based upon gross receipts must, in the case of a PEO, be based upon the administrative fee of the PEO.

(b) A tax assessed on a per capita or per employee basis must be assessed against a:

- (1) client for covered employees; and
- (2) PEO for the PEO's employees who are not covered employees.

(c) In the case of tax imposed or calculated upon the basis of total payroll, a PEO is eligible to apply a small business allowance or exemption available to the client for covered employees for the purpose of computing the tax.

Chapter 8. Benefit Plans

Sec. 1. A client and a PEO are each considered to be an employer for purposes of sponsoring retirement and welfare benefit plans for covered employees.

Sec. 2. A fully insured welfare benefit plan offered to covered employees of a single PEO is:

- (1) considered to be a single employer welfare benefit plan; and
- (2) not a multiple employer welfare arrangement (as defined in IC 27-1-34-1(b)) and is not required to comply with IC 27-1-34.

Sec. 3. For purposes of IC 27-8-15, all covered employees of a PEO participating in a group health benefit plan sponsored by the PEO are considered to be:

- (1) employees of the PEO; and
- (2) participating in a single employer plan.

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1 **Sec. 4. If a PEO offers to the PEO's covered employees a health**
 2 **benefit plan that is not fully insured by an insurer authorized**
 3 **under this title to conduct the business of insurance in Indiana, the**
 4 **health benefit plan must:**

5 **(1) be administered by an administrator licensed under**
 6 **IC 27-1-25;**

7 **(2) hold all plan assets, including participant contributions, in**
 8 **a trust account;**

9 **(3) provide sound reserves for the health benefit plan as**
 10 **determined using generally accepted actuarial standards as**
 11 **set forth in an actuarial opinion filed with the commissioner**
 12 **and prepared and signed by a qualified actuary who:**

13 **(A) is a member in good standing of the American**
 14 **Academy of Actuaries; and**

15 **(B) meets the requirements established by the**
 16 **commissioner in rules adopted under IC 4-22-2;**

17 **(4) annually submit current audited financial statements to**
 18 **the commissioner;**

19 **(5) at the discretion of the commissioner, possess a written**
 20 **commitment, binder, or policy for stop-loss insurance:**

21 **(A) issued by an insurer authorized to conduct the business**
 22 **of insurance in Indiana; and**

23 **(B) that meets any specific and total coverage**
 24 **requirements established by the commissioner in rules**
 25 **adopted under IC 4-22-2;**

26 **(6) be subject to audit for compliance with the requirements**
 27 **of this section by the department on a random basis or upon**
 28 **a finding of reasonable need; and**

29 **(7) provide written notice to each covered employee**
 30 **participating in the health benefit plan that the health benefit**
 31 **plan is:**

32 **(A) self-insured or not fully insured; and**

33 **(B) subject to the federal Employee Retirement Income**
 34 **Security Act of 1974 (29 U.S.C. 1001 et seq.).**

35 **Chapter 9. Worker's Compensation**

36 **Sec. 1. Subject to the specification required under**
 37 **IC 27-16-7-2(b)(3), a client and a PEO are both considered the**
 38 **employer of a covered employee for purposes of coverage under**
 39 **IC 22-3-2 through IC 22-3-7.**

40 **Sec. 2. The protection of the exclusive remedy provisions of**
 41 **IC 22-3-2-6 and IC 22-3-7-6 apply to the PEO, the client, and each**
 42 **covered employee and other employee of the client regardless of**

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whether the PEO or the client is responsible to obtain the worker's compensation coverage for the covered employees under the professional employer agreement.

Chapter 10. Unemployment Compensation Insurance

Sec. 1. (a) For purposes of IC 22-4, a covered employee of a PEO is an employee of the PEO.

(b) A PEO is responsible for the payment of contributions, penalties, and interest on wages paid by the PEO to the PEO's covered employees during the term of the professional employer agreement.

Sec. 2. A PEO shall report and pay all required contributions to the unemployment compensation fund as required by IC 22-4-10 using the state employer account number and the contribution rate of the PEO.

Sec. 3. Upon the:

- (1)** termination of a professional employer agreement; or
- (2)** failure by a PEO to submit reports or make tax payments as required under this article;

the client must be treated by the department of workforce development as a new employer without a previous experience record unless the client is otherwise eligible for an experience rating.

SECTION 96. IC 34-30-2-119.7 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 119.7. IC 27-16-3-2(2) (Concerning a dispute involving a professional employer organization).**

SECTION 97. THE FOLLOWING ARE REPEALED [EFFECTIVE JULY 1, 2005]: IC 25-1-2-9; IC 25-1-11-9.5; IC 25-21.5-8-3.

SECTION 98. [EFFECTIVE JULY 1, 2005] **(a)** This SECTION applies to the entities listed in IC 25-1-6-3, as amended by this act.

(b) Notwithstanding the requirement under this act that an entity described in subsection (a) must adopt fees, a fee charged by an entity on June 30, 2005, continues in effect until the fee is changed by a rule adopted by the entity. An entity described in subsection (a) must adopt a rule described in this SECTION before January 1, 2006.

(c) This SECTION expires July 1, 2006.

SECTION 99. [EFFECTIVE JULY 1, 2005] **(a)** Notwithstanding IC 27-16-4-7, as added by this act, the department of insurance shall carry out the duties imposed upon it under IC 27-16-4-7 under interim written guidelines approved by the insurance

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1 commissioner.

2 (b) This SECTION expires on the earlier of the following:

3 (1) The date rules are adopted under IC 27-16-4-7.

4 (2) December 31, 2006.

5 SECTION 100. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
6 IC 27-16-5-4, as added by this act, the department of insurance
7 shall carry out the duties imposed upon it under IC 27-16-5-4
8 under interim written guidelines approved by the insurance
9 commissioner.

10 (b) This SECTION expires on the earlier of the following:

11 (1) The date rules are adopted under IC 27-16-5-4.

12 (2) December 31, 2006.

13 SECTION 101. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
14 IC 27-16-5-6, as added by this act, the department of insurance
15 shall carry out the duties imposed upon it under IC 27-16-5-6
16 under interim written guidelines approved by the insurance
17 commissioner.

18 (b) This SECTION expires on the earlier of the following:

19 (1) The date rules are adopted under IC 27-16-5-6.

20 (2) December 31, 2006.

21 SECTION 102. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
22 IC 25-4-1-3, as amended by this act, the board of registration for
23 architects and landscape architects shall carry out the duties
24 imposed upon it by IC 25-4-1-3, as amended by this act, under
25 interim written guidelines approved by the executive director of
26 the Indiana professional licensing agency.

27 (b) This SECTION expires on the earlier of the following:

28 (1) The date rules are adopted by the board of registration for
29 architects and landscape architects.

30 (2) December 31, 2006.

31 SECTION 103. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
32 IC 25-21.5-2-14(b), as amended by this act, the state board of
33 registration for land surveyors shall carry out the duties imposed
34 upon it by IC 25-21.5-2-14(b), as amended by this act, under
35 interim written guidelines approved by the executive director of
36 the Indiana professional licensing agency.

37 (b) This SECTION expires on the earlier of the following:

38 (1) The date rules are adopted by the state board of
39 registration for land surveyors.

40 (2) December 31, 2006.

41 SECTION 104. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
42 IC 25-31-1-7(a), as amended by this act, the state board of

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1 registration for professional engineers shall carry out the duties
 2 imposed upon it by IC 25-31-1-7(a), as amended by this act, under
 3 interim written guidelines approved by the executive director of
 4 the Indiana professional licensing agency.

5 (b) This SECTION expires on the earlier of the following:

6 (1) The date rules are adopted by the state board of
 7 registration for professional engineers.

8 (2) December 31, 2006.

9 SECTION 105. [EFFECTIVE JUNE 1, 2005] (a) As used in this
 10 SECTION, "board" refers to the state board of massage therapy
 11 established by IC 25-21.8-3-1, as added by this act.

12 (b) The governor shall make initial appointments to the board
 13 not later than July 1, 2005. The initial members of the board shall
 14 serve for the following terms:

15 (1) The three (3) members appointed under IC 25-21.8-3-2(1),
 16 as added by this act, serve for two (2) years.

17 (2) The two (2) members appointed under IC 25-21.8-3-2(2),
 18 as added by this act, serve for three (3) years.

19 (c) An individual who does not meet the requirements of
 20 IC 25-21.8-3-2(1), as added by this act, may be appointed to the
 21 board if the individual:

22 (1) substantially meets the requirements of licensure under
 23 IC 25-21.8, as added by this act;

24 (2) currently practices massage or massage therapy in
 25 Indiana; and

26 (3) has practiced massage or massage therapy in Indiana after
 27 June 1, 2002, for at least three (3) consecutive years.

28 (d) This SECTION expires July 1, 2009.

29 SECTION 106. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding
 30 IC 25-21.8-5-3, as added by this act, the state board of massage
 31 therapy established by IC 25-21.8-3-1, as added by this act, may
 32 issue a license before July 1, 2007, to an applicant who practiced
 33 massage or massage therapy in Indiana after June 30, 2000, and
 34 before July 1, 2005, if the applicant meets the condition set forth in
 35 one (1) of the following subdivisions:

36 (1) Provides the board with two (2) of the following:

37 (A) Letters of recommendation from three (3) of the
 38 following:

39 (i) A licensed physician.

40 (ii) A massage therapy client.

41 (iii) A member of the clergy.

42 (iv) An employer that employs the applicant in the

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practice of massage or massage therapy.

(B) Internal Revenue Service income tax return forms from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage or massage therapy.

(C) A schedule book of massage or massage therapy clients from two (2) consecutive years.

(2) Provides proof of current membership in good standing in a massage or massage therapy professional association that requires at least five hundred (500) hours of supervised classroom instruction as a condition of membership.

(3) Provides a copy of a diploma, transcript, certificate, or another proof of completion of:

(A) a massage school accredited by:

(i) the Indiana commission on proprietary education established by IC 20-1-19-2; or

(ii) another state where the standards for massage therapy education are substantially equivalent to the standards in Indiana; or

(B) a program at an institution of higher learning that is approved by the board.

(b) An applicant who begins practicing massage or massage therapy in Indiana after June 30, 2005, must meet the licensing requirements set forth in IC 25-21.8, as added by this act, to be licensed in Indiana.

(c) Notwithstanding IC 25-21.8-5-3 and IC 25-21.8-6, both as added by this act, the state board of massage therapy may issue a license to an applicant who:

(1) before March 1, 2005, enrolled in a massage therapy school or program that required at least five hundred (500) hours of supervised classroom instruction if the school or program was in good standing with any state, regional, or national agency of government charged with regulating massage therapy or programs; and

(2) before January 1, 2006, completes the requirements of the massage therapy school or program described in subdivision (1).

(1).

(d) This SECTION expires July 1, 2008.

SECTION 107. [EFFECTIVE JULY 1, 2005] (a) Before July 1, 2007, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, shall:

(1) adopt a licensing examination;

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1 (2) approve an examination other than the National
2 Certification Examination for Therapeutic Massage and
3 Bodywork (NCETMB); or

4 (3) approve an equivalent massage examination accredited by
5 the National Commission for Certifying Agencies (NCCA);
6 that an individual may use as the basis for complying with
7 IC 25-21.8-5-3(1)(D), as added by this act.

8 (b) This SECTION expires December 31, 2007.

9 SECTION 108. [EFFECTIVE JULY 1, 2005] IC 25-21.8-8-1(b), as
10 added by this act, applies only to acts committed after June 30,
11 2005.

12 SECTION 109. An emergency is declared for this act.

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COMMITTEE REPORT

Madam President: The Senate Committee on Governmental Affairs and Interstate Cooperation, to which was referred Senate Bill No. 139, has had the same under consideration and begs leave to report the same back to the Senate with the recommendation that said bill be AMENDED as follows:

Page 4, line 25, after "for a" insert "**public**".

Page 4, line 26, after "a" insert "**public**".

Page 8, line 3, after "a" insert "**public**".

and when so amended that said bill do pass.

(Reference is to SB 139 as introduced.)

RIEGSECKER, Chairperson

Committee Vote: Yeas 8, Nays 0.

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COMMITTEE REPORT

Mr. Speaker: Your Committee on Employment and Labor, to which was referred Senate Bill 139, has had the same under consideration and begs leave to report the same back to the House with the recommendation that said bill be amended as follows:

Delete the title and insert the following:

A BILL FOR AN ACT to amend the Indiana Code concerning professions and occupations and to make an appropriation.

Page 1, between the enacting clause and line 1, begin a new paragraph and insert:

"SECTION 1. IC 10-13-3-37 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 37. (a) Under Public Law 92-544 (86 Stat. 1115), a local law enforcement agency may use fingerprints submitted for the purpose of identification in a request related to the following:

- (1) A taxicab driver's license application.
- ~~(2) An application for a license for a massage therapist.~~
- ~~(3)~~ **(2)** Reinstatement or renewal of a **taxicab driver's** license. ~~described in subdivisions (1) and (2).~~

(b) An applicant shall submit the fingerprints on forms provided for the license application.

(c) The local law enforcement agency shall charge each applicant the fees set by the department and federal authorities to defray the costs associated with a search for and classification of the applicant's fingerprints.

(d) The local law enforcement agency may:

- (1) forward for processing to the Federal Bureau of Investigation or any other agency fingerprints submitted by a license applicant; and
- (2) receive the results of all fingerprint investigations.

SECTION 2. IC 25-1-2-2.1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 2.1. Rather than being issued annually, the following permits, licenses, certificates of registration, or evidences of authority granted by a state agency must be issued for a period of two (2) years or for the period specified in the article under which the permit, license, certificate of registration, or evidence of authority is issued if the period specified in the article is longer than two (2) years:

- (1) Certified public accountants, public accountants, and accounting practitioners.
- (2) Architects and landscape architects.
- (3) Dry cleaners.

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- (4) Professional engineers.
- (5) Land surveyors.
- (6) Real estate brokers.
- (7) Real estate agents.
- (8) Security dealers' licenses issued by the securities commissioner.
- (9) Dental hygienists.
- (10) Dentists.
- (11) Veterinarians.
- (12) Physicians.
- (13) Chiropractors.
- (14) Physical therapists.
- (15) Optometrists.
- (16) Pharmacists and assistants, drugstores or pharmacies.
- (17) Motels and mobile home park licenses.
- (18) Nurses.
- (19) Podiatrists.
- (20) Occupational therapists and occupational therapy assistants.
- (21) Respiratory care practitioners.
- (22) Social workers, marriage and family therapists, and mental health counselors.
- (23) Real estate appraiser licenses and certificates issued by the real estate appraiser licensure and certification board.
- (24) Wholesale legend drug distributors.
- (25) Physician assistants.
- (26) Dietitians.
- (27) Hypnotists.
- (28) Athlete agents.
- (29) Manufactured home installers.
- (30) Home inspectors.
- (31) Massage therapists.**
- (32) Interior designers.**

SECTION 3. IC 25-1-2-6 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 6. (a) As used in this section, "license" includes all occupational and professional licenses, registrations, permits, and certificates issued under the Indiana Code, and "licensee" includes all occupational and professional licensees, registrants, permittees, and certificate holders regulated under the Indiana Code.

(b) This section applies to the following entities that regulate occupations or professions under the Indiana Code:

- (1) Indiana board of accountancy.



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- (2) Indiana grain buyers and warehouse licensing agency.
- (3) Indiana auctioneer commission.
- (4) Board of registration for architects and landscape architects.
- (5) State board of barber examiners.
- (6) State board of cosmetology examiners.
- (7) Medical licensing board of Indiana.
- (8) Secretary of state.
- (9) State board of dentistry.
- (10) State board of funeral and cemetery service.
- (11) Worker's compensation board of Indiana.
- (12) Indiana state board of health facility administrators.
- (13) Committee of hearing aid dealer examiners.
- (14) Indiana state board of nursing.
- (15) Indiana optometry board.
- (16) Indiana board of pharmacy.
- (17) Indiana plumbing commission.
- (18) Board of podiatric medicine.
- (19) Private detectives licensing board.
- (20) State board of registration for professional engineers.
- (21) Board of environmental health specialists.
- (22) State psychology board.
- (23) Indiana real estate commission.
- (24) Speech-language pathology and audiology board.
- (25) Department of natural resources.
- (26) State boxing commission.
- (27) Board of chiropractic examiners.
- (28) Mining board.
- (29) Indiana board of veterinary medical examiners.
- (30) State department of health.
- (31) Indiana physical therapy committee.
- (32) Respiratory care committee.
- (33) Occupational therapy committee.
- (34) Social worker, marriage and family therapist, and mental health counselor board.
- (35) Real estate appraiser licensure and certification board.
- (36) State board of registration for land surveyors.
- (37) Physician assistant committee.
- (38) Indiana dietitians certification board.
- (39) Indiana hypnotist committee.
- (40) Attorney general (only for the regulation of athlete agents).
- (41) Manufactured home installer licensing board.
- (42) Home inspectors licensing board.

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(43) State board of massage therapy.

~~(43)~~ **(44)** Any other occupational or professional agency created after June 30, 1981.

(c) Notwithstanding any other law, the entities included in subsection (b) shall send a notice of the upcoming expiration of a license to each licensee at least sixty (60) days prior to the expiration of the license. The notice must inform the licensee of the need to renew and the requirement of payment of the renewal fee. If this notice of expiration is not sent by the entity, the licensee is not subject to a sanction for failure to renew if, once notice is received from the entity, the license is renewed within forty-five (45) days of the receipt of the notice."

Page 2, between lines 27 and 28, begin a new line block indented and insert:

"(16) State board of massage therapy (IC 25-21.8-3-1)."

Page 6, between lines 11 and 12, begin a new paragraph and insert:

"SECTION 9. IC 25-1-7-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this chapter:

"Board" means the appropriate agency listed in the definition of regulated occupation in this section.

"Director" refers to the director of the division of consumer protection.

"Division" refers to the division of consumer protection, office of the attorney general.

"Licensee" means a person who is:

- (1) licensed, certified, or registered by a board listed in this section; and
- (2) the subject of a complaint filed with the division.

"Person" means an individual, a partnership, a limited liability company, or a corporation.

"Regulated occupation" means an occupation in which a person is licensed, certified, or registered by one (1) of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).

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- (9) State board of funeral and cemetery service (IC 25-15-9).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Indiana state board of nursing (IC 25-23-1).
- (14) Indiana optometry board (IC 25-24).
- (15) Indiana board of pharmacy (IC 25-26).
- (16) Indiana plumbing commission (IC 25-28.5-1-3).
- (17) Board of podiatric medicine (IC 25-29-2-1).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1).
- (23) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (24) Respiratory care committee (IC 25-34.5).
- (25) Private detectives licensing board (IC 25-30-1-5.1).
- (26) Occupational therapy committee (IC 25-23.5).
- (27) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6).
- (28) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (29) State board of registration for land surveyors (IC 25-21.5-2-1).
- (30) Physician assistant committee (IC 25-27.5).
- (31) Indiana athletic trainers board (IC 25-5.1-2-1).
- (32) Indiana dietitians certification board (IC 25-14.5-2-1).
- (33) Indiana hypnotist committee (IC 25-20.5-1-7).
- (34) Indiana physical therapy committee (IC 25-27).
- (35) Manufactured home installer licensing board (IC 25-23.7).
- (36) Home inspectors licensing board (IC 25-20.2-3-1).
- (37) State board of massage therapy (IC 25-21.8-3-1).**
- (38) Office of the secretary of state for purposes of registering interior designers (IC 25-20.7).**
- ~~(37)~~ **(39) Any other occupational or professional agency created after June 30, 1981.**

SECTION 10. IC 25-1-8-1 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this

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chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2-1).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) Board of chiropractic examiners (IC 25-10-1).
- (7) State board of cosmetology examiners (IC 25-8-3-1).
- (8) State board of dentistry (IC 25-14-1).
- (9) State board of funeral and cemetery service (IC 25-15).
- (10) State board of registration for professional engineers (IC 25-31-1-3).
- (11) Indiana state board of health facility administrators (IC 25-19-1).
- (12) Medical licensing board of Indiana (IC 25-22.5-2).
- (13) Mining board (IC 22-10-1.5-2).
- (14) Indiana state board of nursing (IC 25-23-1).
- (15) Indiana optometry board (IC 25-24).
- (16) Indiana board of pharmacy (IC 25-26).
- (17) Indiana plumbing commission (IC 25-28.5-1-3).
- (18) Board of environmental health specialists (IC 25-32-1).
- (19) State psychology board (IC 25-33).
- (20) Speech-language pathology and audiology board (IC 25-35.6-2).
- (21) Indiana real estate commission (IC 25-34.1-2-1).
- (22) Indiana board of veterinary medical examiners (IC 15-5-1.1-3).
- (23) Department of insurance (IC 27-1).
- (24) State police department (IC 10-11-2-4), for purposes of certifying polygraph examiners under IC 25-30-2.
- (25) Department of natural resources for purposes of licensing water well drillers under IC 25-39-3.
- (26) Private detectives licensing board (IC 25-30-1-5.1).
- (27) Occupational therapy committee (IC 25-23.5-2-1).
- (28) Social worker, marriage and family therapist, and mental health counselor board (IC 25-23.6-2-1).
- (29) Real estate appraiser licensure and certification board (IC 25-34.1-8).
- (30) State board of registration for land surveyors (IC 25-21.5-2-1).
- (31) Physician assistant committee (IC 25-27.5).

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- (32) Indiana athletic trainers board (IC 25-5.1-2-1).
- (33) Board of podiatric medicine (IC 25-29-2-1).
- (34) Indiana dietitians certification board (IC 25-14.5-2-1).
- (35) Indiana physical therapy committee (IC 25-27).
- (36) Manufactured home installer licensing board (IC 25-23.7).
- (37) Home inspectors licensing board (IC 25-20.2-3-1).
- (38) State board of massage therapy (IC 25-21.8-3-1).**
- (39) Office of the secretary of state for purposes of registering interior designers (IC 25-20.7).**
- ~~(38)~~ **(40)** Any other occupational or professional agency created after June 30, 1981."

Page 6, between lines 37 and 38, begin a new paragraph and insert:
 "SECTION 12. IC 25-1-11-1 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 1. As used in this
 chapter, "board" means any of the following:

- (1) Indiana board of accountancy (IC 25-2.1-2-1).
- (2) Board of registration for architects and landscape architects (IC 25-4-1-2).
- (3) Indiana auctioneer commission (IC 25-6.1-2).
- (4) State board of barber examiners (IC 25-7-5-1).
- (5) State boxing commission (IC 25-9-1).
- (6) State board of cosmetology examiners (IC 25-8-3-1).
- (7) State board of registration of land surveyors (IC 25-21.5-2-1).
- (8) State board of funeral and cemetery service (IC 25-15-9).
- (9) State board of registration for professional engineers (IC 25-31-1-3).
- (10) Indiana plumbing commission (IC 25-28.5-1-3).
- (11) Indiana real estate commission (IC 25-34.1-2-1).
- (12) Real estate appraiser licensure certification board (IC 25-34.1-8).
- (13) Private detectives licensing board (IC 25-30-1-5.1).
- (14) Manufactured home installer licensing board (IC 25-23.7).
- (15) Home inspectors licensing board (IC 25-20.2-3-1).
- (16) State board of massage therapy (IC 25-21.8-3-1).**
- (17) Office of the secretary of state (IC 25-20.7)."**

Page 8, between lines 10 and 11, begin a new paragraph and insert:
 "SECTION 17. IC 25-4-1-3 IS AMENDED TO READ AS
 FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. The board shall
 organize by the election of a chairman and vice chairman, each of
 whom shall serve for a term of one (1) year. The first meeting of the
 board shall be held within thirty (30) days after the members thereof
 shall have been appointed, on call of the chairman of the board.



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Thereafter, the board shall hold at least two (2) regular meetings each year and may hold such special meetings, as the board in its discretion ~~may deem~~ **deems** necessary or advisable. The time for holding the regular meetings, the method of calling special meetings and the manner of giving notice of all meetings shall be prescribed in the bylaws of the board. Five (5) members of the board shall constitute a quorum for the transaction of any and all business which may come before the board. Approval by a majority of all members of the board shall be required for action to be taken. The board shall adopt official seals representing the different professions that shall be affixed to all certificates of registration granted and issued as provided in this chapter. Subject to the approval of the governor, the board is hereby authorized to make ~~such~~ bylaws and prescribe and promulgate ~~such~~ rules as ~~may be~~ deemed necessary in the performance of its duty. The board shall adopt rules establishing standards for the competent practice of architecture and landscape architecture, **and for the administration of the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.** Suitable office quarters shall be provided for the use of the board in the city of Indianapolis.

SECTION 18. IC 25-4-1-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. The board shall be entitled to the services of the attorney general in connection with any of the business of the board. The board shall have the power to administer oaths and take testimony and proofs concerning any matter which may come within its jurisdiction. The attorney general, the prosecuting attorney of any county, the board, ~~of registration for architects and landscape architects,~~ or ~~any a~~ citizen of ~~any a~~ county wherein any person, not herein exempted, shall engage in the practice of architecture or landscape architecture, as herein defined, without first having obtained a certificate of registration, or without first having renewed an expired certificate of registration, so to practice, may, in accordance with the provisions of the laws of this state governing injunctions, maintain an action, in the name of the state of Indiana, to enjoin such person from engaging in the practice of architecture or landscape architecture, as herein defined, until a certificate of registration is secured, or renewed, in accordance with the provisions of this chapter. Any person who has been so enjoined and who ~~shall violate such~~ **violates the** injunction shall be punished for contempt of court. ~~Such~~ **The** injunction shall not relieve such person so practicing architecture or landscape architecture without a certificate of registration, or without first having renewed an expired certificate of

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registration, from a criminal prosecution therefor, as is provided by this chapter, but such remedy by injunction shall be in addition to any remedy provided for herein for the criminal prosecution of such offender. In charging any person in a complaint for an injunction, or in an affidavit, information or indictment, with the violation of the provisions of this chapter, by practicing architecture or landscape architecture without a certificate of registration or without having renewed an expired certificate of registration, it shall be sufficient to charge that the person did upon a certain day and in a certain county engage in the practice of architecture or landscape architecture, without having a certificate of registration or without having renewed an expired certificate of registration, to so practice, without averring any further or more particular facts concerning the same. **The attorney general and the Indiana professional licensing agency may use the investigative fund to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article."**

Page 10, between lines 8 and 9, begin a new paragraph and insert:

"(f) In addition to the registration fees established under this section, the board shall establish a fee of not more than twenty dollars (\$20) for registered architects or registered landscape architects to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered architects and registered landscape architects investigative fund established by section 32 of this chapter.

SECTION 23. IC 25-4-1-32 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 32. (a) The registered architects and registered landscape architects investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the board.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon registered architects and registered landscape architects under section 16(f) of this chapter.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

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(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provision of this article."

Page 10, between lines 37 and 38, begin a new paragraph and insert:

"SECTION 24. IC 25-4-2-8 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 8. (a) The board shall set the fees for issuance of a certificate of registration to a landscape architect and for the biennial renewal of registration. The fee for registration and for renewal of registration must be based upon the administrative costs of registering and regulating landscape architects. This fee must include the costs for:

- (1) office facilities, supplies, and equipment; and
- (2) clerical assistance; and

(3) the fee for administering and enforcing the provisions of this article as set forth in IC 24-4-1-16(f).

(b) Except as provided in IC 25-4-1-32, all fees collected under this chapter shall be paid by the Indiana professional licensing agency to the treasurer of state who shall deposit them in the general fund of the state."

Page 27, between lines 5 and 6, begin a new paragraph and insert:

"SECTION 67. IC 25-20.7 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 20.7. INTERIOR DESIGNERS

Chapter 1. Application

Sec. 1. This article applies to a person who practices interior design after December 31, 2005.

Sec. 2. This article does not apply to an owner or employee of a retail establishment who provides consultation regarding interior decoration or furnishing:

- (1) on the premises of the retail establishment; or
- (2) for the purposes of an actual or prospective retail sale.

Sec. 3. This article does not apply to a person who:

- (1) does not profess to be a registered interior designer; and

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(2) is:

(A) an architect licensed under IC 25-4; or

(B) a professional engineer licensed under IC 25-31.

Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. "ARE" refers to the Architectural Registration Exam.

Sec. 3. "Interior design" means client consultation and preparation and administration of design documents that include:

- (1) design studies;
- (2) drawings;
- (3) schedules;
- (4) specifications; and
- (5) contracts;

relating to nonstructural and nonseismic interior elements of a building or structure. The term includes design documents for space plans, reflected ceiling plans, fire codes, permits, entrances, egress, ergonomics, and the design or specification of fixtures, furnishings, equipment, cabinetry, lighting, materials, finishes, and interior construction that does not materially affect the building system. The term does not include the architectural and engineering design of interior construction.

Sec. 4. "Interior designer" means a person who practices interior design.

Sec. 5. "NCIDQ" refers to the National Council for Interior Design Qualification.

Sec. 6. "Nonstructural or nonseismic" means interior elements or components that:

- (1) are not load bearing or do not assist in the seismic design;
- (2) do not require design computations for the structure of a building; and
- (3) do not include the structural frame system supporting a building.

This term includes ceiling and partition systems that employ normal and typical bracing conventions and are not part of the structural integrity of the building.

Sec. 7. "Out-of-state applicant" means an individual who is:

- (1) an interior designer registered or licensed under the laws of another state, a foreign country, or a province in a foreign country; and
- (2) an applicant for a certificate of registration under this article.

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Sec. 8. "Reflected ceiling plan" means a ceiling design that illustrates a ceiling as if the ceiling was projected downward and may include lighting elements.

Sec. 9. "Registered interior designer" means a person registered under this article.

Sec. 10. "Secretary of state" means the office of the secretary of state.

Sec. 11. "Space planning" means the analysis of design of spatial and occupancy requirements, including space layouts and final planning.

Chapter 3. Registration Requirements

Sec. 1. (a) The secretary of state shall maintain a registry of all interior designers who:

- (1) apply for and meet the registration requirements under this article; and
- (2) pay the annual registration fee.

(b) The registry shall:

- (1) be maintained in an electronic format; and
- (2) include the:
 - (A) name of each registered interior designer; and
 - (B) date that the interior designer registered with the secretary of state.

Sec. 2. The secretary of state shall issue a certificate of registration to an interior designer who does the following:

- (1) Applies for the registration on a form prescribed by the secretary of state.
- (2) Meets the requirements of this article.
- (3) Pays the registration fee under section 5 of this chapter.

Sec. 3. The secretary of state shall issue a certificate of registration to an applicant who satisfies section 2 of this chapter and the following:

- (1) Meets one (1) of the following requirements:
 - (A) Completes a degree in interior design or similar discipline from an accredited college or university.
 - (B) Obtains:
 - (i) four (4) years of interior design higher education and two (2) years of full-time work experience;
 - (ii) three (3) years of interior design higher education and three (3) years of full-time work experience in interior design; or
 - (iii) two (2) years of interior design education and four (4) years of full-time work experience in interior design.

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(2) Except as provided in section 4 of this chapter, an applicant must pass the examination administered by the NCIDQ or the ARE.

Sec. 4. The examination requirement under section 3(2) of this chapter is waived if the applicant holds:

- (1) a valid license or certificate in interior design from an authority in another jurisdiction that has standards substantially equivalent to this article; and
- (2) a current certificate issued by the NCIDQ or documentation of the successful completion of the ARE.

Sec. 5. (a) The secretary of state shall collect the following fees under this article:

- (1) An initial registration fee of one hundred dollars (\$100).
- (2) A biennial renewal fee of one hundred dollars (\$100).
- (3) A restoration fee of three hundred dollars (\$300).

(b) The fees collected by the secretary of state under this article shall be deposited into the electronic and enhanced access fund established by IC 4-5-10-5.

Sec. 6. To qualify for registration under this article, the applicant must not have a conviction for:

- (1) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or
- (2) a felony that has a direct bearing on the applicant's ability to practice competently.

Sec. 7. (a) This section applies only to an out-of-state applicant.

(b) The secretary of state shall grant a certificate of registration to an out-of-state applicant upon the following conditions:

- (1) The applicant must be at least eighteen (18) years of age and must not have been convicted of:

- (A) an act that would constitute a ground for disciplinary sanction under IC 25-1-11; or
- (B) a felony that has a direct bearing on the applicant's ability to practice competently.

(2) The applicant must:

- (A) pass the examination administered by the NCIDQ or the ARE; or
- (B) hold a current valid license or certificate of registration in interior design from an authority in another jurisdiction that has standards substantially equivalent to this article.

(3) The applicant must pay fees established by the board.

Sec. 8. A registered interior designer shall display the certificate of registration in a conspicuous place:

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- (1) in the principal office;
 - (2) of business; or
 - (3) of employment;
- of the registered interior designer.

Sec. 9. (a) A registered interior designer shall have a seal or design authorized by the secretary of state, the impression of which must contain:

- (1) the name of the interior designer;
- (2) the words, "registered interior designer" and "state of Indiana"; and
- (3) the expiration date of the certification.

(b) A registered interior designer must place the seal described in subsection (a) and signature of the registered interior designer on any interior design construction documents issued by the registered interior designer and filed for public record for purposes of obtaining a building permit, including:

- (1) drawings;
- (2) plans;
- (3) specifications; and
- (4) reports.

(c) If a certificate of registration is suspended or revoked, the interior designer shall return the seal to the secretary of state not later than thirty (30) days after the date the certificate was revoked or suspended. The secretary of state shall return the seal to the interior designer if the suspension is removed.

Sec. 10. Notwithstanding section 3 of this chapter, a person may be registered with the secretary of state and issued a certificate of registration after completion of the requirements of section 2 of this chapter if the person provides proof to the secretary of state that:

- (1) the person has:
 - (A) received two (2) to four (4) years of education in interior design; and
 - (B) practiced in the field of interior design for at least ten (10) years; or
- (2) the person has practiced interior design for at least fifteen (15) years.

However, a person registered under this section may not place a seal and signature on interior design construction documents as set forth in section 9(b) of this chapter for the purpose of obtaining a building permit unless the person has passed the examination administered by the NCIDQ or the ARE.

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Chapter 4. Renewal of Certification

Sec. 1. An individual who applies to renew a certificate of registration as an interior designer must:

- (1) furnish evidence showing successful completion of the continuing education requirements under section 3 of this chapter; and**
- (2) pay the renewal fee established under IC 25-20.7-3-5.**

Sec. 2. (a) Renewal notices must be sent in accordance with IC 25-1-2-6(c).

(b) The renewal fee must be paid in accordance with IC 25-1-8-2(d).

Sec. 3. Each registered interior designer must complete at least twelve (12) hours of continuing education in interior design or a discipline related to the practice of interior design for the renewal of a certificate under this chapter.

Sec. 4. (a) A registered interior designer who continues to actively practice interior design shall:

- (1) renew the certification within ninety (90) days before the expiration of the certificate; and**
- (2) pay the renewal fee under IC 25-20.7-3-5.**

(b) A registered interior designer whose certificate has expired may have the certificate restored only upon payment of the restoration fee under IC 25-20.7-3-5.

(c) Subject to subsection (d), an interior designer registered under this article who has failed to renew the interior designer's certificate for a period of not more than five (5) years from the date the certificate expired may have the certificate renewed at any time within the five (5) year period after the certification expired upon:

- (1) making application to the board for renewal of the certification; and**
- (2) paying a renewal fee equal to the sum of the renewal fees that the applicant would have paid if the applicant had regularly renewed the certification during the period that the certification lapsed.**

(d) If a registered interior designer desires to retire from the practice of interior design in Indiana, the interior designer may submit to the secretary of state a verified statement of intention to withdraw from practice. The statement shall be entered in the records of the secretary of state. During the period of the interior designer's retirement, the interior designer is not liable for any renewal or restoration fees. If a retired interior designer desires to

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return to the practice of interior design in Indiana not later than a period of five (5) years after the date that the interior designer files a statement under this subsection, the retired interior designer must:

- (1) file with the secretary of state a verified statement indicating the interior designer's desire to return to the practice of interior design; and
- (2) pay:
 - (A) the renewal fee under IC 25-20.7-3-5 to renew an unexpired certification under this chapter, if the retired interior designer's certification is renewed for one (1) year or more in a biennial renewal cycle; or
 - (B) a renewal fee equal to one-half (1/2) the fee under IC 25-20.7-3-5 to renew an unexpired certification under this chapter, if the retired interior designer's certification is renewed for less than one (1) year in a biennial renewal cycle.

Sec. 5. The secretary of state shall keep a register of all applicants for certification showing for each applicant:

- (1) the dates of application;
- (2) the name, age, and other qualifications;
- (3) the place of business;
- (4) the place of residence;
- (5) whether the applicant was denied or granted a certificate of registration under this article; and
- (6) the date the applicant was denied or granted a certificate of registration.

Sec. 6. (a) A person may not use the title "registered interior designer" in Indiana or any title designation sign, card, or device indicating that the person is a registered interior designer unless the person has registered with the secretary of state under this article.

(b) A person may not:

- (1) present as the person's own the certificate of registration or the seal of another;
- (2) give any false or forged evidence of any kind to the secretary of state or in obtaining a certificate of registration;
- (3) impersonate any other registrant;
- (4) use an expired, suspended, or revoked certificate of registration.

(c) A violation of this section is a Class B misdemeanor.

Sec. 7. The secretary of state may suspend or revoke a

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certificate of registration for a violation under section 6(b) of this chapter.

Sec. 8. This article does not prevent an interior designer from practicing interior design if the person does not use the designation under section 6 of this chapter.

Sec. 9. (a) If an interior designer has a civil judgment entered against the interior designer by a court of competent jurisdiction in a civil judicial proceeding for negligence, recklessness, willful misconduct, or other breach of standard of care in the practice of interior design, the secretary of state shall immediately withdraw the interior designer's certificate of registration under this article.

(b) An interior designer who has a civil judgment described in subsection (a) entered against the interior designer is ineligible to be registered under this article.

SECTION 68. IC 25-21.5-2-14 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 14. (a) The board shall enforce and administer this article.

(b) The board shall adopt rules under IC 4-22-2 that are reasonably necessary to implement this article, **including for the administration of the registered land surveyor and registered land surveyor in training investigative fund established under IC 25-21.5-11-4**, and establish standards for the competent practice of land surveying.

SECTION 69. IC 25-21.5-3-4 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 4. **(a) Except as provided in subsection (b)**, the secretary shall receive and account for all money collected under this article and deposit the money in the state general fund with the treasurer of state. All expenses incurred in the administration of this article shall be paid from the state general fund.

(b) In addition to a registration fee determined under IC 25-21.5-7-5, the board shall establish a fee of not more than twenty dollars (\$20) for a registered land surveyor or a registered land surveyor in training to provide funds for the purpose of administering and enforcing the provision of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited in the registered land surveyor and registered land surveyor in training investigative fund established by IC 25-21.5-11-4."

Page 27, line 13, delete "The" and insert "Except as provided in IC 25-21.5-3-4(b), the".

Page 28, between lines 10 and 11, begin a new paragraph and insert:

"SECTION 73. IC 25-21.5-11-4 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS

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[EFFECTIVE JULY 1, 2005]: Sec. 4. (a) The registered land surveyor and registered land surveyor in training investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon registered land surveyors and registered land surveyors in training under IC 25-21.5-3-4(b).

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the Indiana professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provision of this article.

SECTION 74. IC 25-21.5-13-3 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 3. (a) The attorney general shall act as the legal advisor for the board and provide any legal assistance necessary to carry out this article.

(b) The attorney general and the licensing agency may use the registered land surveyor and registered land surveyor in training investigative fund established under IC 25-21.5-11-4 to hire investigators and other employees to enforce the provisions of this article and to investigate and prosecute violations of this article.

SECTION 75. IC 25-21.8 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 21.8. MESSAGE THERAPISTS

Chapter 1. Application of Article

Sec. 1. (a) This article applies to an individual who practices or offers to practice massage therapy.

(b) This article does not apply to the following:

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- (1) An individual who:
- (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and
 - (B) engages in the practice for which the person holds a license, certification, or registration under Indiana law, including a physician, a chiropractor, a podiatrist, or a physical therapist.
- (2) An individual who:
- (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and
 - (B) is a qualified member of a professional group and performs massage in a manner consistent with the individual's training and code of ethics of the profession, including a chiropractor, an occupational therapist, a cosmetologist, or a nurse.
- (3) A massage therapy student who performs massage or massage therapy in the course of the student's studies and who:
- (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and
 - (B) does not receive or request compensation for the massage or massage therapy.
- (4) An individual who:
- (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) and whose services are not designated or implied to be massage or massage therapy;
 - (B) is engaged within the scope of practice of a profession with established standards and ethics; and
 - (C) uses:
 - (i) touch, words, and direct movements to deepen awareness of existing patterns of movement in the body and to suggest new possibilities of movement; or
 - (ii) touch that is essential for effectual palpation of the human energy system.
- (5) An individual who:
- (A) does not profess to be a massage therapist or use a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3); and

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(B) treats soft tissue above the neck, below the elbow, or below the knee on a client who is not disrobed.

Chapter 2. Definitions

Sec. 1. Definitions in this chapter apply throughout this article.

Sec. 2. "Board" means the state board of massage therapy established by IC 25-21.8-3-1.

Sec. 3. "Licensing agency" means the Indiana professional licensing agency established under IC 25-1-6.

Sec. 4. "Massage", "massage therapy", or "bodywork":

(1) means the therapeutic application of massage techniques on the human body;

(2) includes:

(A) the use of touch, pressure, percussion, kneading, movement, positioning, nonspecific stretching, stretching within the normal anatomical range of movement, and holding, with or without the use of massage devices that mimic or enhance manual measures; and

(B) the external application of heat, cold, water, ice, stones, thermal therapy, lubricants, abrasives, and topical preparations that are not classified as prescription drugs; and

(3) does not include:

(A) joint manipulation or spinal adjustment; and

(B) diagnosis or prescribing drugs for which a license is required.

Sec. 5. "Massage therapist" means an individual who practices massage or massage therapy.

Sec. 6. "NCCA" refers to the National Commission for Certifying Agencies.

Sec. 7. "Practice of massage", "practice of massage therapy", or "practice of bodywork" means:

(1) the performance of massage or massage therapy;

(2) professing to be a massage therapist; or

(3) implying in any manner to the public that an individual performs massage or massage therapy.

Sec. 8. "Professional massage and bodywork therapy association" means a state or nationally chartered organization that is devoted to the massage specialty and therapeutic approach and that meets the following requirements:

(1) The organization requires that its members meet minimum educational requirements. The educational requirements must include anatomy, physiology, hygiene,

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sanitation, ethics, technical theory, and application of techniques.

(2) The organization has an established code of ethics and has procedures for the suspension and revocation of membership of persons violating the code of ethics.

Chapter 3. State Board of Massage Therapy

Sec. 1. The state board of massage therapy is established.

Sec. 2. The board consists of five (5) members appointed by the governor as follows:

(1) Three (3) massage therapists, each of whom:

(A) is licensed under this article; and

(B) has been actively practicing massage therapy for at least three (3) of the five (5) years immediately preceding the individual's appointment.

The board members appointed under this subdivision may continue to practice massage or massage therapy while serving on the board.

(2) Two (2) members of the general public. A board member appointed under this subdivision must not:

(A) be licensed under this article;

(B) be the spouse of an individual who is licensed or intends to be licensed under this article; or

(C) have a direct or an indirect financial interest in the profession regulated under this article.

Only one (1) of the two (2) members appointed under this subdivision may hold a license in another health care profession under this title.

Sec. 3. Each member of the board shall serve a term of three (3) years and until the member's successor is appointed and qualified.

Sec. 4. (a) A vacancy in the membership of the board shall be filled by an individual appointed by the governor for the unexpired term.

(b) A member may not serve more than two (2) consecutive terms in addition to any unexpired term to which the individual was appointed.

(c) A member of the board may be removed for cause by the governor.

Sec. 5. (a) Each year the board shall elect from its members the following officers:

(1) A chairperson.

(2) A vice chairperson.

(3) A secretary.

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(b) A member serving as chairperson, vice chairperson, or secretary shall serve until the member's successor as chairperson, vice chairperson, or secretary is elected.

Sec. 6. The board shall meet at least two (2) times each calendar year upon the call of the chairperson or the written request of a majority of the members of the board.

Sec. 7. (a) Three (3) members of the board constitute a quorum.

(b) An affirmative vote of three (3) members of the board is necessary for the board to take official action.

Sec. 8. A member of the board is not entitled to a per diem allowance or any other compensation for the performance of the member's duties.

Chapter 4. Powers and Duties of the Board

Sec. 1. (a) The board shall do the following:

- (1) Administer, coordinate, and enforce this article.
- (2) Adopt rules under IC 4-22-2 for the administration and enforcement of this article.
- (3) Judge the qualifications of applicants for licensing under this article.
- (4) Issue, deny, renew, suspend, or revoke licenses under this article.
- (5) Discipline licensees for violations of this article.
- (6) Establish reasonable fees for examination, license applications, renewal of licenses, and other services.
- (7) Maintain a record of all proceedings.
- (8) Establish a system for grievances to be addressed and resolved.
- (9) Maintain a list of licensed massage therapists.

(b) The board is authorized to do the following:

- (1) Rescind or modify a disciplinary action taken under IC 25-21.8-8.
- (2) Conduct investigations to determine whether violations of this article exist and constitute grounds for disciplinary action against licensees under this article.
- (3) Conduct administrative hearings.

Sec. 2. The licensing agency shall do the following:

- (1) Carry out the administrative functions of the board.
- (2) Provide necessary personnel to carry out the duties of this article.
- (3) Receive and account for all fees required under this article.
- (4) Deposit fees collected with the treasurer of state for

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deposit in the state general fund.

Sec. 3. Expenses incurred in the administration of this article must be paid from the state general fund.

Chapter 5. Issuance of License

Sec. 1. An individual may not practice or offer to practice massage therapy without a license issued by the board.

Sec. 2. An application for a massage therapist license must be:

- (1) made to the board on forms provided by the board; and**
- (2) accompanied by an application fee in the amount set by the board.**

Sec. 3. An individual who applies for a license as a massage therapist must do the following:

(1) Furnish evidence satisfactory to the board showing that the individual:

- (A) is at least eighteen (18) years of age;**
- (B) has a high school diploma or the equivalent of a high school diploma;**
- (C) has successfully completed a massage school or program that:**

- (i) requires at least five hundred (500) hours of supervised classroom instruction on massage therapy;**
- (ii) is in good standing with any state, regional, or national agency of government charged with regulating massage therapy schools or programs; and**
- (iii) is accredited by the Indiana commission on proprietary education established by IC 20-1-19-2 or accredited by another state where the standards for massage therapy education are substantially the same as the standards in Indiana, or is a program at an institution of higher learning that is approved by the board; and**

(D) has taken and passed one (1) of the following:

- (i) The National Certification Examination for Therapeutic Massage and Bodywork (NCETMB), if the exam is recognized or accredited by the NCCA.**
- (ii) An examination created or approved by the board.**
- (iii) An equivalent massage examination accredited by the NCCA.**

(2) Provide a history of any criminal convictions the individual has, including any convictions related to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

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(A) the conviction is for:

- (i) prostitution;
- (ii) rape; or
- (iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(3) Verify the information submitted on the application form.

(4) Pay fees established by the board.

Sec. 4. An individual who is not licensed under this article may not:

- (1) profess to be a massage therapist;
- (2) practice massage or massage therapy; or
- (3) use:

(A) the title "Licensed Massage Therapist", "Massage Therapist", "Licensed Massage Practitioner", "Massage Practitioner", "Masseur", "Masseuse", "Myotherapist", or "Body Worker";

(B) the abbreviation "LMT", "MT", "LMP", or "MP"; or

(C) other words, initials, letters, abbreviations, or insignia indicating or implying that the individual is a massage therapist licensed under this article.

Chapter 6. Licensure by Endorsement

Sec. 1. (a) Subject to section 2 of this chapter, the board may grant a license by endorsement to an individual who:

- (1) is licensed, certified, or registered in another state or country having credentialing standards that are at least as strict as the credentialing standards specified under this article;
- (2) is in good standing with the standards of the other state or country;
- (3) pays an application fee established by the board; and
- (4) provides a history of the individual's criminal convictions, if any, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to a license, unless:

(A) the conviction is for:

- (i) prostitution;
- (ii) rape; or
- (iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) Upon receipt of an application for a license by endorsement under this chapter, the board shall contact each jurisdiction that previously credentialed the applicant to determine the applicant's

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current status in each jurisdiction.

Sec. 2. The board shall issue a license to an applicant if:

(1) the applicant has been credentialed by another state within the five (5) years immediately preceding the submission of the application to the board under this chapter and the state has credentialing standards for massage therapists that are substantially equivalent to the credentialing standards that must be met under this article; or

(2) the applicant:

(A) holds a current certification from the National Certification Board for Therapeutic Massage and Bodywork (NCETMB) or another agency that meets standards set by the NCCA; and

(B) is a current member of a professional massage and bodywork therapy association;

and the applicant meets other requirements established by the board.

Chapter 7. License Renewal

Sec. 1. A license issued by the board is valid for four (4) years.

Sec. 2. (a) An individual who applies to renew a license as a massage therapist must:

(1) file a renewal application with the board;

(2) pay a renewal fee established by the board; and

(3) provide a history of any of the individual's criminal convictions, including any criminal convictions relating to the practice of the profession. A criminal conviction may not operate as a complete bar to the renewal of a license, unless:

(A) the conviction is for:

(i) prostitution;

(ii) rape; or

(iii) sexual misconduct; or

(B) the applicant is a registered sex offender.

(b) An application for license renewal must include proof of current membership in a professional massage and bodywork therapy association.

Sec. 3. (a) A renewal application must be submitted to the board at least fifteen (15) days before expiration of the license.

(b) If a renewal application is not submitted within the time set forth in subsection (a), the board may charge the applicant a delinquent fee in an amount established by the board.

Chapter 8. Discipline and Violations

Sec. 1. (a) This section does not apply to the violation of a rule

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adopted by the board.

(b) A person who knowingly or intentionally violates IC 25-21.8-5-1 or IC 25-21.8-5-4(3) commits a Class C misdemeanor.

Sec. 2. (a) The board shall follow the disciplinary procedures established under IC 25-1-7, IC 25-1-9-4, and IC 25-1-9-9.

(b) The board shall adopt rules under IC 4-22-2 regarding the discipline of a licensee for a violation of this article.

Sec. 3. (a) A person who practices, offers to practice, or attempts to practice massage therapy, or who holds himself or herself out to the public as a person able to practice massage therapy or as a massage therapist without being licensed under this article, in addition to any other penalty provided by law, shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

(b) A civil penalty imposed under this section shall be paid not later than sixty (60) days after the effective date of the order imposing the civil penalty. The order:

- (1) constitutes a judgment; and
- (2) may be filed and executed in the same manner as any judgment from any court of record.

Sec. 4. A person who knowingly:

- (1) aids and abets another person in using a title, an abbreviation, or another designation set forth in IC 25-21.8-5-4(3) when the other person is not authorized under this article to use the title, abbreviation, or other designation; or
- (2) employs another person who uses but is not authorized to use the regulated professional title under this article in the course of the other person's employment;

shall pay a civil penalty to the board in an amount that does not exceed five thousand dollars (\$5,000) for each violation as determined by the board.

Chapter 9. Preemption of Local Ordinances, Resolutions, Rules, and Policies

Sec. 1. Except as provided in section 2 of this chapter, this article supersedes any ordinances, resolutions, rules, and policies relating to the licensing, certification, or registration of massage therapists that are adopted by a municipality or county and that otherwise have the force and effect of law.

Sec. 2. This article does not affect local ordinances, resolutions,

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rules, and policies adopted by a municipality or county that have the force and effect of law and that relate to:

- (1) zoning requirements; or
- (2) occupational license fees."

Page 28, between lines 22 and 23, begin a new paragraph and insert:
 "SECTION 77. IC 25-28.5-1-12 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 12. (a) Except as otherwise provided in this chapter, ~~any~~ a natural person over the age of eighteen (18) years who resides in Indiana and any corporation which satisfies the further requirements of this chapter may be licensed by the commission as a plumbing contractor. Except as otherwise provided by this chapter, ~~any~~ a natural person over the age of eighteen (18) years may be licensed by the commission as journeyman plumber.

(b) ~~Any~~ A person who desires to be licensed as a plumbing contractor or journeyman plumber is eligible for such a license upon the successful taking of the examination provided in section 15 of this chapter.

(c) To qualify for a journeyman plumber examination under subsection (b), an applicant who is an Indiana resident must provide evidence that the applicant has completed at least four (4) years in an apprenticeship program approved by the commission or present to the commission a notarized statement providing evidence that the applicant has at least four (4) years of experience in the plumbing trade **in employment as set forth in IC 25-28.5-1-32(2), IC 25-28.5-1-32(6), or IC 25-28.5-1-32(7).** To qualify for a plumbing contractor license examination under subsection (b), an applicant who is an Indiana resident must provide evidence that the applicant has completed at least four (4) years in an apprenticeship program approved by the commission or present to the commission a notarized statement providing evidence that the applicant has at least four (4) years of experience in the plumbing trade **in employment as set forth in IC 25-28.5-1-32(2), IC 25-28.5-1-32(6), or IC 25-28.5-1-32(7),** or has worked in a plumbing business under the direction of a licensed plumbing contractor for at least four (4) years.

(d) An applicant who is not an Indiana resident may qualify to take an examination under subsection (b) in the following manner:

- (1) If the applicant holds a license in a state that does not have a reciprocity agreement with Indiana, the applicant must present the license to the commission to be eligible to take the examination.
- (2) If the applicant resides in a state that does not have licensing requirements, the applicant before taking the examination must meet the appropriate requirements of subsection (b).

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(e) If the applicant holds a license in a state that has a reciprocity agreement with Indiana, the appropriate license shall be issued automatically."

Page 30, between lines 39 and 40, begin a new paragraph and insert:

"SECTION 85. IC 25-31-1-7 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 7. (a) The board shall enforce and administer the provisions of this chapter, and adopt rules, not inconsistent with the Constitution and laws of this state, as may be reasonably necessary for the proper performance of its duties and the regulations of the proceedings before it. The board shall adopt rules establishing standards for the competent practice of engineering **and for the administration of the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter.** Any rulemaking by the board shall be in accordance with IC 4-22-2.

(b) The board shall adopt and have an official seal.

SECTION 86. IC 25-31-1-9 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 9. **(a) Except as provided in subsection (b),** the licensing agency shall receive and account for all money collected under the provisions of this chapter and shall deposit the money with the treasurer of state to be deposited by the treasurer of state in the general fund of the state.

(b) In addition to the registration fee established under section 13(c) of this chapter, the board shall establish a fee of not more than twenty dollars (\$20) for registered professional engineers or registered engineering interns to provide funds for the purpose of administering and enforcing the provisions of this article, including investigating and taking action against persons violating this article. All funds collected under this subsection shall be deposited into the registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter."

Page 34, between lines 14 and 15, begin a new paragraph and insert:

"SECTION 91. IC 25-31-1-28 IS AMENDED TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 28. (a) It is the duty of all law enforcement officers of this state, or any political subdivision, to enforce the provisions of this chapter and to apprehend and prosecute any person who violates any of the provisions of this chapter.

(b) The attorney general shall act as the legal advisor of the board and render any legal assistance as may be necessary in carrying out the provisions of this chapter.

(c) The attorney general and the licensing agency may use the

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registered professional engineers and registered engineering interns investigative fund established by section 35 of this chapter to hire investigators and other employees to enforce the provision of this article and to investigate and prosecute violations of this article.

SECTION 92. IC 25-31-1-35 IS ADDED TO THE INDIANA CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: Sec. 35. (a) The registered professional engineers and registered engineering interns investigative fund is established to provide funds for administering and enforcing the provisions of this article, including investigating and taking enforcement action against violators of this article. The fund shall be administered by the attorney general and the licensing agency.

(b) The expenses of administering the fund shall be paid from the money in the fund. The fund consists of money from a fee imposed upon registered professional engineers and registered engineering interns under section 9(b) of this chapter.

(c) The treasurer of state shall invest the money in the fund not currently needed to meet the obligations of the fund in the same manner as other public money may be invested.

(d) Money in the fund at the end of a state fiscal year does not revert to the state general fund. If the total amount in the fund exceeds five hundred thousand dollars (\$500,000) at the end of a state fiscal year after payment of all claims and expenses, the amount that exceeds five hundred thousand dollars (\$500,000) reverts to the state general fund.

(e) Money in the fund is continually appropriated for use by the attorney general and the professional licensing agency to administer and enforce the provisions of this article and to conduct investigations and take enforcement action against persons violating the provisions of this article."

Page 34, line 25, after "public" delete "." and insert ";".

Page 37, line 6, after "public" delete "." and insert ";".

Page 40, between lines 9 and 10, begin a new paragraph and insert:
"SECTION 95. IC 27-16 IS ADDED TO THE INDIANA CODE AS A NEW ARTICLE TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]:

ARTICLE 16. PROFESSIONAL EMPLOYER ORGANIZATIONS

Chapter 1. Applicability

Sec. 1. This article applies after December 31, 2005.

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Chapter 2. Definitions

Sec. 1. The definitions in this chapter apply throughout this article.

Sec. 2. (a) "Administrative fee" means the fee charged to a client by a professional employer organization for professional employer services.

(b) The term does not include any amount charged to a client by a professional employer organization for wages and salaries, benefits, worker's compensation, payroll taxes, withholding, or other assessments paid by a professional employer organization to or on behalf of a covered employee.

Sec. 3. "Client" means a person that enters into a professional employer agreement with a professional employer organization.

Sec. 4. "Co-employed" means that an individual is contemporaneously employed by both a client and a professional employer organization.

Sec. 5. "Co-employer" refers to a client or a professional employer organization that has entered into a professional employer agreement and has a relationship with a co-employed individual.

Sec. 6. "Co-employment relationship" means a relationship:

(1) between a:

(A) client and a professional employer organization; or

(B) co-employer and a covered employee; and

(2) that results from the client and the professional employer organization entering into a professional employer agreement.

Sec. 7. "Commissioner" refers to the insurance commissioner appointed under IC 27-1-1-2.

Sec. 8. (a) "Covered employee" means an individual who is co-employed.

(b) The term includes an individual who is an officer, a director, a shareholder, a partner, or a manager of a client to the extent the professional employer organization and the client expressly agree that the individual:

(1) is described in subsection (a); and

(2) acts as an operational manager or performs day to day operational services for the client;

as reflected in the professional employer agreement.

Sec. 9. "Department" refers to the department of insurance created by IC 27-1-1-1.

Sec. 10. "PEO group" means two (2) or more professional employer organizations that are majority owned or commonly

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controlled by the same entity, parent, or controlling person.

Sec. 11. "Person" means an individual, a partnership, a corporation, a limited liability company, an association, or another legally recognized entity.

Sec. 12. "Professional employer agreement" means a written contract between a person and a professional employer organization:

- (1) under which all or a majority of the person's employees become covered employees;
- (2) that provides for the allocation of employer rights and obligations between the person and the professional employer organization with respect to the covered employees; and
- (3) that specifies the professional employer services that will be provided.

Sec. 13. (a) "Professional employer organization" or "PEO" means a person engaged in the business of providing professional employer services.

(b) The term does not include the following:

(1) An arrangement through which a person:

- (A) whose principal business activity is an activity other than entering into professional employer agreements; and**
- (B) that does not hold the person out as a professional employer organization;**

shares employees with a commonly owned company within the meaning of Section 414(b) and 414(c) of the Internal Revenue Code of 1986, as amended.

(2) An independent contractor arrangement through which a person:

- (A) assumes responsibility for a product produced or a service performed by the person or the person's agent; and**
- (B) retains and exercises primary direction and control over the work performed by an individual whose services are supplied under the independent contractor arrangement.**

(3) The provision of temporary help services.

Sec. 14. "Professional employer services" means the services that are provided to a client by a professional employer organization under a professional employer agreement.

Sec. 15. "Temporary help service" means a service consisting of a person that:

- (1) recruits and hires the person's own employees, not including an officer, a manager, or a controlling person of a**

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client to which the person's own employee is assigned by the person;

(2) identifies organizations that need the services of employees described in subdivision (1);

(3) assigns employees described in subdivision (1) to:

(A) perform work or services for organizations described in subdivision (2);

(B) support or supplement the workforces of organizations described in subdivision (2); or

(C) provide assistance in special work situations, including employee absences, skill shortages, seasonal workloads, and special assignments or projects; and

(4) customarily attempts to reassign the employees described in subdivision (1) to other organizations when an assignment described in subdivision (3) is completed.

Chapter 3. Effect on Rights, Duties, and Obligations

Sec. 1. This article and a professional employer agreement do not affect, modify, or amend:

(1) a collective bargaining agreement; or

(2) rights or obligations of a client, PEO, or covered employee under:

(A) the federal National Labor Relations Act (29 U.S.C. 151 et seq.);

(B) the federal Railway Labor Act (45 U.S.C. 151 et seq.); or

(C) IC 22-7.

Sec. 2. This article and a professional employer agreement do not do the following:

(1) Diminish, abolish, or remove the obligations of a client to a covered employee that exist before the effective date of the professional employer agreement.

(2) Affect, modify, or amend a contractual relationship or restrictive covenant:

(A) between a covered employee and a client that is in effect on the effective date of the professional employer agreement; or

(B) that is entered into between a client and a covered employee after the effective date of the professional employer agreement.

A PEO is not responsible or liable for a dispute in connection with or arising out of a contractual relationship or restrictive covenant described in this subdivision unless the PEO has

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otherwise specifically agreed in writing.

(3) Create a new or additional enforceable right of a covered employee against a PEO that is not specifically provided by the professional employer agreement or this article.

Sec. 3. (a) This article and a professional employer agreement do not affect, modify, or amend a federal, state, or local:

- (1) license;
- (2) registration; or
- (3) certification;

requirement that applies to a client or covered employee.

(b) The following apply to a federal, state, or local requirement described in subsection (a):

(1) A covered employee who is required to be licensed, registered, or certified is considered solely an employee of the client for purposes of a license, registration, or certification requirement.

(2) A PEO is not considered to engage in an occupation, a trade, a profession, or another activity that is:

(A) subject to a license, registration, or certification requirement; or

(B) otherwise regulated by a governmental entity; solely because the PEO has entered into and maintained a co-employment relationship with a covered employee who is subject to a requirement or regulation described in clause (A) or (B).

(3) A client has the sole right of direction and control of the professional or licensed activities of a covered employee and of the client's business.

(4) Only a:

(A) covered employee; or

(B) client;

that is subject to a requirement or regulation described in subdivision (2)(A) or (2)(B) is subject to the regulation by a regulatory or governmental entity responsible for licensing, registration, certification, or other regulation of the covered employee or client.

Sec. 4. (a) For purposes of determination of tax credits and other economic incentives:

- (1) provided by the state or another governmental entity; and
- (2) based on employment;

a covered employee is considered an employee solely of the client.

(b) A client is entitled to the benefit of any tax credit, economic

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incentive, or other benefit arising as the result of the employment of a covered employee of the client.

(c) If the grant or amount of an incentive is based on the number of employees a client employs:

(1) each client must be treated as employing only the covered employees actually working in the client's business operations; and

(2) covered employees working for other clients of the PEO must not be counted.

(d) A PEO shall provide, upon request by a client or an agency or a department of the state or of another governmental entity, employment information:

(1) reasonably required by an agency or a department of the state or of another governmental entity that is responsible for administration of a tax credit or economic incentive described in this section; and

(2) necessary;

to support a request, a claim, an application, or another action by a client seeking a tax credit or an economic incentive.

Sec. 5. With respect to a bid, a contract, a purchase order, or an agreement entered into with the state or a political subdivision of the state, a client's status or certification as a:

(1) small, minority owned, disadvantaged, or woman owned business enterprise; or

(2) historically underutilized business;

is not affected because the client has entered into the professional employment agreement.

Chapter 4. Registration

Sec. 1. (a) A person shall not:

(1) provide professional employer services;

(2) advertise that the person:

(A) is a professional employer organization; or

(B) provides professional employer services; or

(3) otherwise hold the person out as a professional employer organization;

in Indiana unless the person is registered under this article.

(b) The registration requirement specified in subsection (a) applies to a person that performs any of the activities specified in subsection (a) regardless of the person's use of any of the following terms:

(1) Professional employer organization.

(2) PEO.

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- (3) Staff leasing company.
- (4) Registered staff leasing company.
- (5) Employee leasing company.
- (6) Administrative employer.
- (7) Any other name.

Sec. 2. An applicant for registration under this article shall file with the department the following information:

- (1) The name or names under which the applicant conducts business.
- (2) The address of the principal place of business of the applicant and the address of each office the applicant maintains in Indiana.
- (3) The applicant's taxpayer or employer identification number.
- (4) A list by jurisdiction of each name under which the applicant has operated in the preceding five (5) years, including any alternative names, names of predecessors, and, if known, successor business entities.
- (5) A statement of ownership that includes the name and evidence of the business experience of any person that, individually or acting in concert with one (1) or more other persons, owns or controls, directly or indirectly, twenty-five percent (25%) or more of the equity interests of the applicant.
- (6) A statement of management that includes the name and evidence of the business experience of any individual who serves as president, chief executive officer, or otherwise has the authority to act as senior executive officer of the applicant.
- (7) A financial statement:
 - (A) setting forth the financial condition of the applicant as of a date not earlier than one hundred eighty (180) days before the date the financial statement is submitted to the department;
 - (B) prepared in accordance with generally accepted accounting principles; and
 - (C) reviewed by an independent certified public accountant licensed to practice in the jurisdiction in which the accountant is located.

Sec. 3. (a) A PEO that is operating in Indiana on January 1, 2006, shall complete the PEO's initial registration not later than July 1, 2006.

(b) An initial registration under subsection (a) is valid until the

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end of the PEO's first fiscal year end that occurs after December 31, 2006.

(c) A PEO that is not operating in Indiana on December 31, 2005, shall complete the PEO's initial registration before commencement of operations in Indiana.

Sec. 4. A PEO shall, not more than one hundred eighty (180) days after the end of the PEO's fiscal year, renew the PEO's registration by filing a statement notifying the department of any changes in the information provided in the PEO's most recent registration or renewal.

Sec. 5. A PEO group may satisfy the reporting and financial requirements of this chapter on a combined or consolidated basis if each member of the PEO group guarantees the obligations under this article of each other member of the PEO group.

Sec. 6. (a) A PEO that is not domiciled in Indiana is eligible for a limited registration under this article if the PEO:

(1) submits a properly executed request for limited registration on a form prescribed by the department;

(2) is licensed or registered as a professional employer organization in another state that has licensure or registration requirements that are:

(A) substantially the same as; or

(B) more restrictive than;

the requirements of this article;

(3) does not:

(A) maintain an office; or

(B) directly solicit clients located or domiciled; in Indiana; and

(4) does not have more than fifty (50) covered employees who are employed or domiciled in Indiana on any day.

(b) A limited registration is valid for one (1) year and may be renewed.

(c) A PEO that seeks limited registration under this section shall provide to the department information and documentation necessary to show that the PEO qualifies for a limited registration.

(d) IC 27-16-6-1(1) does not apply to a PEO that applies for limited registration under this section.

Sec. 7. The department shall adopt rules under IC 4-22-2 to provide for registration of a PEO without compliance with this chapter and IC 27-16-6 by the commissioner's acceptance of an affidavit or a certification:

(1) provided by a bonded, independent, and qualified

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assurance organization that has been approved by the commissioner; and

(2) that certifies the qualifications of a professional employer organization.

Sec. 8. The department shall maintain a list of PEOs that are registered under this article.

Sec. 9. The department may prescribe forms necessary to promote the efficient administration of this chapter.

Sec. 10. All records, reports, and other information obtained from a PEO under this chapter, except to the extent necessary for the proper administration of this chapter by the department, are confidential.

Chapter 5. Fees

Sec. 1. Upon filing an initial registration application under IC 27-16-4-2, a PEO shall pay an initial registration fee not to exceed five hundred dollars (\$500).

Sec. 2. Upon the filing of an annual renewal of a registration under IC 27-16-4-4, a PEO shall pay a renewal fee not to exceed two hundred fifty dollars (\$250).

Sec. 3. Upon initial application for limited registration under IC 27-16-4-6 and upon each annual renewal of the limited registration, a PEO shall pay a fee not to exceed two hundred fifty dollars (\$250).

Sec. 4. The department shall adopt rules under IC 4-22-2 to specify any fee to be charged for a PEO group registration.

Sec. 5. A PEO seeking registration under IC 27-16-4-7 shall pay an initial and annual fee not to exceed two hundred fifty dollars (\$250).

Sec. 6. (a) The department shall adopt rules under IC 4-22-2 to specify any other fee to be charged under this article.

(b) A fee:

(1) for which the amount is not specified in; and

(2) that is charged under;

this article must not exceed the amount reasonably necessary for the administration of this article.

Sec. 7. Fees collected under this chapter shall be deposited in the department of insurance fund established by IC 27-1-3-28.

Chapter 6. Financial Requirements

Sec. 1. (a) A PEO shall maintain either:

(1) subject to section 2 of this chapter, a minimum net worth of fifty thousand dollars (\$50,000); or

(2) subject to subsection (b), a bond with a market value of at

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least fifty thousand dollars (\$50,000).

(b) A bond described in subsection (a)(2) must be held by a depository designated by the department, securing payment by the PEO of all taxes, wages, benefits, or other entitlement due to or with respect to covered employees in the event that the PEO does not make the payments when due.

Sec. 2. A bond described in section 1(a)(2) of this chapter must not be included in the calculation of the minimum net worth described in section 1(a)(1) of this chapter.

Chapter 7. General Requirements and Provisions

Sec. 1. Except as provided in a professional employer agreement, the following apply to a co-employment relationship:

(1) The client:

(A) may exercise and enforce all rights; and

(B) is obligated to perform all duties and responsibilities; that otherwise apply to an employer in an employment relationship, that are allocated to the client by the professional employer agreement and this article, and that are not specifically allocated to the PEO by the professional employer agreement and this article.

(2) The PEO:

(A) may exercise and enforce only the rights; and

(B) is obligated to perform only the duties and responsibilities;

that are required of the PEO or specifically allocated to the PEO by this article and the professional employer agreement.

(3) Unless otherwise expressly agreed by the PEO and the client in the professional employer agreement, the client retains the exclusive right to direct and control the covered employees as necessary to:

(A) conduct the client's business;

(B) discharge the client's fiduciary responsibilities; or

(C) comply with licensure requirements that apply to the client or the covered employees.

Sec. 2. (a) Except as provided in this article, the co-employment relationship between a client and a PEO, and between a co-employer and a covered employee, is governed by the professional employer agreement.

(b) A professional employer agreement must specify the following:

(1) The allocation of rights, duties, and responsibilities described in section 1 of this chapter.

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(2) Except as provided in subsection (c), that the PEO is responsible for:

- (A) payment of wages to covered employees;
- (B) withholding, collection, reporting, and remittance of payroll related and unemployment taxes; and
- (C) to the extent the PEO has assumed responsibility in the professional employer agreement, making payments for employee benefits for covered employees.

(3) The allocation, to either the client or the PEO, of the responsibility to obtain worker's compensation coverage for covered employees from a worker's compensation insurer that is authorized under this title to conduct the business of insurance in Indiana.

(4) If the professional employer agreement allocates the responsibility under subdivision (3) to the PEO, a requirement that the PEO maintain and provide to the client, at the client's request at the termination of the professional employer agreement, records regarding loss experience related to the worker's compensation insurance coverage.

(c) A PEO is not responsible for an obligation between a client and a covered employee for payments in addition to the covered employee's salary, draw, or regular rate of pay, including bonuses, commissions, severance pay, deferred compensation, profit sharing, or vacation, sick, or other paid time off, unless the PEO has expressly agreed to assume liability for the payments in the professional employer agreement.

Sec. 3. A PEO shall provide written notice to each covered employee who is affected by a professional employer agreement entered into by the PEO concerning the general nature of the co-employment relationship between and among the PEO, the client, and the covered employee.

Sec. 4. (a) Except as expressly provided by the professional employer agreement:

(1) a client:

(A) is solely responsible for:

- (i) the quality, adequacy, or safety of goods or services produced or sold in the client's business;
- (ii) directing, supervising, training, and controlling the work of a covered employee with respect to the business activities of the client; and
- (iii) the acts, errors, or omissions of a covered employee with respect to activities described in item (ii); and

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(B) is not liable for the acts, errors, or omissions of:

- (i) the PEO; or**
- (ii) a covered employee of the client and a PEO when the covered employee is acting under the express direction and control of the PEO.**

(2) A PEO is not liable for the acts, errors, or omissions of a client or a covered employee of the client when the covered employee is acting under the express direction and control of the client.

(3) A covered employee is not, solely as the result of being a covered employee of a PEO, an employee of the PEO for purposes of:

- (A) general liability insurance;**
- (B) fidelity bonds;**
- (C) surety bonds;**
- (D) employer's liability that is not covered by worker's compensation; or**
- (E) liquor liability insurance;**

carried by the PEO unless the covered employee is specified as an employee of the PEO by specific reference in the professional employer agreement and any applicable prearranged employment contract, insurance contract, or bond.

(b) This section does not limit:

- (1) a contractual liability or obligation specified in a professional employer agreement; or**
- (2) the liabilities and obligations of a PEO or client as specified in this article.**

Sec. 5. A PEO that offers, markets, sells, administers, or provides professional employer services under a professional employer agreement as provided in this article is not:

- (1) engaged in the business of insurance; or**
- (2) acting as an administrator (as defined in IC 27-1-25-1).**

Sec. 6. (a) A business license fee or other fee that is based upon gross receipts must, in the case of a PEO, be based upon the administrative fee of the PEO.

(b) A tax assessed on a per capita or per employee basis must be assessed against a:

- (1) client for covered employees; and**
- (2) PEO for the PEO's employees who are not covered employees.**

(c) In the case of tax imposed or calculated upon the basis of

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total payroll, a PEO is eligible to apply a small business allowance or exemption available to the client for covered employees for the purpose of computing the tax.

Chapter 8. Benefit Plans

Sec. 1. A client and a PEO are each considered to be an employer for purposes of sponsoring retirement and welfare benefit plans for covered employees.

Sec. 2. A fully insured welfare benefit plan offered to covered employees of a single PEO is:

- (1) considered to be a single employer welfare benefit plan; and
- (2) not a multiple employer welfare arrangement (as defined in IC 27-1-34-1(b)) and is not required to comply with IC 27-1-34.

Sec. 3. For purposes of IC 27-8-15, all covered employees of a PEO participating in a group health benefit plan sponsored by the PEO are considered to be:

- (1) employees of the PEO; and
- (2) participating in a single employer plan.

Sec. 4. If a PEO offers to the PEO's covered employees a health benefit plan that is not fully insured by an insurer authorized under this title to conduct the business of insurance in Indiana, the health benefit plan must:

- (1) be administered by an administrator licensed under IC 27-1-25;
- (2) hold all plan assets, including participant contributions, in a trust account;
- (3) provide sound reserves for the health benefit plan as determined using generally accepted actuarial standards as set forth in an actuarial opinion filed with the commissioner and prepared and signed by a qualified actuary who:
 - (A) is a member in good standing of the American Academy of Actuaries; and
 - (B) meets the requirements established by the commissioner in rules adopted under IC 4-22-2;
- (4) annually submit current audited financial statements to the commissioner;
- (5) at the discretion of the commissioner, possess a written commitment, binder, or policy for stop-loss insurance:
 - (A) issued by an insurer authorized to conduct the business of insurance in Indiana; and
 - (B) that meets any specific and total coverage

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requirements established by the commissioner in rules adopted under IC 4-22-2;

(6) be subject to audit for compliance with the requirements of this section by the department on a random basis or upon a finding of reasonable need; and

(7) provide written notice to each covered employee participating in the health benefit plan that the health benefit plan is:

(A) self-insured or not fully insured; and

(B) subject to the federal Employee Retirement Income Security Act of 1974 (29 U.S.C. 1001 et seq.).

Chapter 9. Worker's Compensation

Sec. 1. Subject to the specification required under IC 27-16-7-2(b)(3), a client and a PEO are both considered the employer of a covered employee for purposes of coverage under IC 22-3-2 through IC 22-3-7.

Sec. 2. The protection of the exclusive remedy provisions of IC 22-3-2-6 and IC 22-3-7-6 apply to the PEO, the client, and each covered employee and other employee of the client regardless of whether the PEO or the client is responsible to obtain the worker's compensation coverage for the covered employees under the professional employer agreement.

Chapter 10. Unemployment Compensation Insurance

Sec. 1. (a) For purposes of IC 22-4, a covered employee of a PEO is an employee of the PEO.

(b) A PEO is responsible for the payment of contributions, penalties, and interest on wages paid by the PEO to the PEO's covered employees during the term of the professional employer agreement.

Sec. 2. A PEO shall report and pay all required contributions to the unemployment compensation fund as required by IC 22-4-10 using the state employer account number and the contribution rate of the PEO.

Sec. 3. Upon the:

(1) termination of a professional employer agreement; or

(2) failure by a PEO to submit reports or make tax payments as required under this article;

the client must be treated by the department of workforce development as a new employer without a previous experience record unless the client is otherwise eligible for an experience rating.

SECTION 96. IC 34-30-2-119.7 IS ADDED TO THE INDIANA

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CODE AS A NEW SECTION TO READ AS FOLLOWS [EFFECTIVE JULY 1, 2005]: **Sec. 119.7. IC 27-16-3-2(2) (Concerning a dispute involving a professional employer organization)."**

Page 40, after line 20, begin a new paragraph and insert:

"SECTION 99. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 27-16-4-7, as added by this act, the department of insurance shall carry out the duties imposed upon it under IC 27-16-4-7 under interim written guidelines approved by the insurance commissioner.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 27-16-4-7.**
- (2) December 31, 2006.**

SECTION 100. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 27-16-5-4, as added by this act, the department of insurance shall carry out the duties imposed upon it under IC 27-16-5-4 under interim written guidelines approved by the insurance commissioner.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 27-16-5-4.**
- (2) December 31, 2006.**

SECTION 101. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 27-16-5-6, as added by this act, the department of insurance shall carry out the duties imposed upon it under IC 27-16-5-6 under interim written guidelines approved by the insurance commissioner.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted under IC 27-16-5-6.**
- (2) December 31, 2006.**

SECTION 102. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-4-1-3, as amended by this act, the board of registration for architects and landscape architects shall carry out the duties imposed upon it by IC 25-4-1-3, as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.

(b) This SECTION expires on the earlier of the following:

- (1) The date rules are adopted by the board of registration for architects and landscape architects.**
- (2) December 31, 2006.**

SECTION 103. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-21.5-2-14(b), as amended by this act, the state board of registration for land surveyors shall carry out the duties imposed

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upon it by IC 25-21.5-2-14(b), as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted by the state board of registration for land surveyors.

(2) December 31, 2006.

SECTION 104. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-31-1-7(a), as amended by this act, the state board of registration for professional engineers shall carry out the duties imposed upon it by IC 25-31-1-7(a), as amended by this act, under interim written guidelines approved by the executive director of the Indiana professional licensing agency.

(b) This SECTION expires on the earlier of the following:

(1) The date rules are adopted by the state board of registration for professional engineers.

(2) December 31, 2006.

SECTION 105. [EFFECTIVE JUNE 1, 2005] (a) As used in this SECTION, "board" refers to the state board of massage therapy established by IC 25-21.8-3-1, as added by this act.

(b) The governor shall make initial appointments to the board not later than July 1, 2005. The initial members of the board shall serve for the following terms:

(1) The three (3) members appointed under IC 25-21.8-3-2(1), as added by this act, serve for two (2) years.

(2) The two (2) members appointed under IC 25-21.8-3-2(2), as added by this act, serve for three (3) years.

(c) An individual who does not meet the requirements of IC 25-21.8-3-2(1), as added by this act, may be appointed to the board if the individual:

(1) substantially meets the requirements of licensure under IC 25-21.8, as added by this act;

(2) currently practices massage or massage therapy in Indiana; and

(3) has practiced massage or massage therapy in Indiana after June 1, 2002, for at least three (3) consecutive years.

(d) This SECTION expires July 1, 2009.

SECTION 106. [EFFECTIVE JULY 1, 2005] (a) Notwithstanding IC 25-21.8-5-3, as added by this act, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, may issue a license before July 1, 2007, to an applicant who practiced massage or massage therapy in Indiana after June 30, 2000, and

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before July 1, 2005, if the applicant meets the condition set forth in one (1) of the following subdivisions:

(1) Provides the board with two (2) of the following:

(A) Letters of recommendation from three (3) of the following:

- (i) A licensed physician.
- (ii) A massage therapy client.
- (iii) A member of the clergy.
- (iv) An employer that employs the applicant in the practice of massage or massage therapy.

(B) Internal Revenue Service income tax return forms from two (2) consecutive years that reflect that the applicant has been employed in the practice of massage or massage therapy.

(C) A schedule book of massage or massage therapy clients from two (2) consecutive years.

(2) Provides proof of current membership in good standing in a massage or massage therapy professional association that requires at least five hundred (500) hours of supervised classroom instruction as a condition of membership.

(3) Provides a copy of a diploma, transcript, certificate, or another proof of completion of:

(A) a massage school accredited by:

- (i) the Indiana commission on proprietary education established by IC 20-1-19-2; or
- (ii) another state where the standards for massage therapy education are substantially equivalent to the standards in Indiana; or

(B) a program at an institution of higher learning that is approved by the board.

(b) An applicant who begins practicing massage or massage therapy in Indiana after June 30, 2005, must meet the licensing requirements set forth in IC 25-21.8, as added by this act, to be licensed in Indiana.

(c) Notwithstanding IC 25-21.8-5-3 and IC 25-21.8-6, both as added by this act, the state board of massage therapy may issue a license to an applicant who:

- (1) before March 1, 2005, enrolled in a massage therapy school or program that required at least five hundred (500) hours of supervised classroom instruction if the school or program was in good standing with any state, regional, or national agency of government charged with regulating

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massage therapy or programs; and

(2) before January 1, 2006, completes the requirements of the massage therapy school or program described in subdivision (1).

(d) This SECTION expires July 1, 2008.

SECTION 107. [EFFECTIVE JULY 1, 2005] (a) Before July 1, 2007, the state board of massage therapy established by IC 25-21.8-3-1, as added by this act, shall:

(1) adopt a licensing examination;

(2) approve an examination other than the National Certification Examination for Therapeutic Massage and Bodywork (NCETMB); or

(3) approve an equivalent massage examination accredited by the National Commission for Certifying Agencies (NCCA); that an individual may use as the basis for complying with IC 25-21.8-5-3(1)(D), as added by this act.

(b) This SECTION expires December 31, 2007.

SECTION 108. [EFFECTIVE JULY 1, 2005] IC 25-21.8-8-1(b), as added by this act, applies only to acts committed after June 30, 2005.

SECTION 109. An emergency is declared for this act."

Renumber all SECTIONS consecutively.

and when so amended that said bill do pass.

(Reference is to SB 139 as printed February 11, 2005.)

TORR, Chair

Committee Vote: yeas 11, nays 1.

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